Also, a bill (H. R. 11116) granting an increase of pension to Henderson Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11117) granting an increase of pension to William S. Gregory—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11118) granting an increase of pension to Laban McGahan—to the Committee on Pensions.

Also, a bill (H. R. 11119) granting an increase of pension to Charles W. Gilbert—to the Committee on Pensions.

Also, a bill (H. R. 11120) granting an honorable discharge to William Bush—to the Committee on Military Affairs.

Also, a bill (H. R. 11121) granting an honorable discharge to John Thacker—to the Committee on Military Affairs.

Also, a bill (H. R. 11122) granting an honorable discharge to Benjamin H. Pruett—to the Committee on Military Affairs.

Also, a bill (H. R. 11123) granting an honorable discharge to Charles Abbott—to the Committee on Military Affairs.

Also, a bill (H. R. 11124) to correct the military record of Capt. John C. Wilson—to the Committee on Military Affairs.

By Mr. GARDNER of New Jersey: A bill (H. R. 11125) granting an increase of pension to Isaac Brooks—to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 11126) for the relief of Theodore Schroeter—to the Committee on Appropriations.

By Mr. McCALL: A bill (H. R. 11127) for the relief of J. Hovey Rand—to the Committee on War Claims.

By Mr. PATTERSON: A bill (H. R. 11128) granting a pension to Ernest E. Pearsall—to the Committee on Pensions.

By Mr. SLAYDEN: A bill (H. R. 11129) for the relief of Ramon Hernandez—to the Committee on Claims.

By Mr. YOUNG of Michigan: A bill (H. R. 11130) granting an increase of pension to Staford Oatman—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Chicago (Ill.) Association of Commerce, composed of 3,000 firms, corporations, and individuals, protesting against legislation to tax the net income of corporations while omitting individuals and copartnerships engaged in competitive lines of business—to the Committee on Ways and Means.

By Mr. BURKE of Pennsylvania: Petition of Mrs. R. Le Grant and other citizens of Pittsburg, Pa., against the increase of duty on women's gloves—to the Committee on Ways and Means.

By Mr. CLARK of Florida: Petition of numerous cigar makers' unions of the State of Florida, against free cigars from the Philippine Islands—to the Committee on Ways and Means.

By Mr. HANNA: Petition of citizens of Lisbon, N. Dak., against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. HILL: Petition of Chamber of Commerce, New Haven, Conn., favoring an expert tariff commission—to the Committee on Ways and Means.

By Mr. HOLLINGSWORTH: Petition of W. H. Ragan and others, against placing engraved portrait of Jefferson Davis on silver service of the battle ship *Mississippi*—to the Committee on Naval Affairs.

By Mr. JOYCE: Petition of citizens of Frazeysburg, Ohio, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. LOVERING: Petition of Brockton Printing Pressmen and Assistants' Union, No. 102, against the duty on print paper and wood pulp and against the tariff bill as it relates to the printing industry—to the Committee on Ways and Means.

By Mr. MOORE of Pennsylvania: Petition of Hat Makers' Beneficial Association, Americo Vespucci Circle, for adoption of October 12 as a holiday, to be known as "Columbus Day"—to the Committee on the Judiciary.

By Mr. HENRY W. PALMER: Petition of Plains Council, No. 660, Junior Order United American Mechanics, favoring enactment of anti-Asiatic immigration legislation—to the Committee on Immigration and Naturalization.

By Mr. RUCKER of Colorado: Petitions of Chamber of Commerce of Rifle, Delta County Business Men's Association, Olathe Chamber of Commerce, Colorado Springs Chamber of Commerce, all in the State of Colorado, against any reduction of the tariff on sugar—to the Committee on Ways and Means.

Also, petition of Denver Chamber of Commerce and Board of Trade, against reduction of duty on lead ore and lead products—to the Committee on Ways and Means.

Also, petition of Denver Live Stock Exchange, favoring retention of the 15 per cent duty on hides—to the Committee on Ways and Means.

Also, petition of Left Hand Grange, No. 9, of Minot, Colo., for a nonpartisan tariff commission—to the Committee on Ways and Means.

By Mr. SLAYDEN: Paper to accompany bill for relief of Ramon H. Fernandez—to the Committee on Claims.

By Mr. SPERRY: Resolutions of the Chamber of Commerce of New Haven, Conn., favoring the creation of a tariff commission—to the Committee on Ways and Means.

By Mr. TAYLOR of Colorado: Petition of chambers of commerce of Rifle, Olathe, and Plateau City, all of the State of Colorado, favoring retention of present rate of duty on sugar—to the Committee on Ways and Means.

By Mr. WEEKS: Petition of directors of the Boston Chamber of Commerce, against federal tax on earnings of corporations—to the Committee on Ways and Means.

SENATE.

TUESDAY, *June 29, 1909.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Retail Grocers' Association of Brooklyn, N. Y., remonstrating against the assertion that the retail dealers of the country are responsible for the prevailing high-priced commodities, which was referred to the Committee on Finance.

Mr. JONES presented a petition of the Chamber of Commerce of Seattle, Wash., praying that an annual appropriation of $50,000,000 be made for the improvement of the waterways and harbors of the country, which was referred to the Committee on Commerce.

Mr. OLIVER presented a petition of North Orwell Grange, No. 128, Patrons of Husbandry, of Bradford County, Pa., praying for the retention of the duty on oleomargarine, which was ordered to lie on the table.

Mr. PILES presented a petition of the Chamber of Commerce of Seattle, Wash., praying that an annual appropriation of $50,000,000 be made for the improvement of the waterways and harbors of the country, which was referred to the Committee on Commerce.

IMPRISONMENT OF NAVAJO INDIANS.

Mr. OWEN. I present the memorial of S. M. Brosius, on behalf of the Indian Rights Association, relative to the decision of the supreme court of Arizona in the habeas corpus proceedings instituted by that association on behalf of certain imprisoned Navajo Indians, and so forth. I ask that the memorial be printed as a document and also that it be printed in the RECORD.

There being no objection, the memorial was ordered to be printed as a document (S. Doc. No. 118) and in the RECORD, as follows:

WASHINGTON, D. C., *June 28, 1909.*

To the Senate of the United States:

On behalf of the Indian Rights Association, I inclose as a memorial the decree of the supreme court of Arizona, with accompanying papers, in the matter of the petition by Bi-a-lil-le and other Navajo Indians for a writ of habeas corpus. These Indians have been imprisoned for one year and eight months and subjected to hard labor, upon approval of the Commissioner of Indian Affairs, without a charge having been filed against them in any court of law, without benefit of counsel or proceeding by due course of law.

The decision in this case marks an epoch, guaranteeing to the red man those rights secured to our forefathers by Magna Charta.

Very respectfully,

S. M. BROSIUS,
Agent Indian Rights Association.

IMPRISONMENT WITHOUT TRIAL.

INDIAN RIGHTS ASSOCIATION,
709 PROVIDENT BUILDING,
Philadelphia, April 15, 1909.

For the information of our members and the general public, we give below a decision recently rendered by the Arizona supreme court in the habeas corpus proceedings instituted by this association on behalf of certain Navajos who were imprisoned, as we contend, without warrant of law by the arbitrary action of the Commissioner of Indian Affairs. We also append a reply by Doctor Grammer to the article in The Outlook of January 30, 1909, by Hon. F. E. Leupp, Commissioner of Indian Affairs, defending his "law or no law" method of dealing with the Indians, as enunciated by him at the Lake Mohonk conference in October, 1908.

This matter was taken up by the association because it was believed to be one of fundamental importance in dealing with Indians. We contend that the Indian is a person within the meaning of the Constitution and can not be deprived of his liberty "without due process of law." The court of first instance in Arizona denied the application for

a writ of habeas corpus. The association appealed the case to the territorial supreme court, where a unanimous opinion was rendered reversing the lower court. The department has announced its intention of appealing from this decision, and the case may yet be argued in the United States Supreme Court. Under these circumstances, while the matter may not be regarded as finally settled, it is deemed proper to acquaint our members with the case as far as it has been developed.

It is worthy of note that criticism upon the commissioner's action, which he treated as a proof of bias and captious opposition on the part of the critics, has been sustained as rightful by a weighty judiciary. It is worthy of mention that the criticism upon the commissioner's action, which has been justified by such an important judiciary, was stigmatized at the Mohonk conference by the commissioner himself as so clearly biased that he had to asperse the motive of those who made it. It is not too much to say that the commissioner's attitude of pronounced hostility to any suggestion or criticism is one of the great difficulties in the way of this association.

It should be noted that after the habeas corpus proceedings were begun six of the Indians were released by the Commissioner of Indian Affairs. Bi-a-lil-le and Polly are still held in confinement in default of $5,000 bail.

In the supreme court of the Territory of Arizona, No. 273.

In the matter of the application of Bi-a-lil-le and seven others for a writ of habeas corpus—Opinion.

Appeal from the district court of the second judicial district; Hon. Fletcher M. Doan, judge.

Mr. O. Gibson, for petitioners; Mr. J. L. B. Alexander, United States attorney, for the respondent.

Opinion by Nave, J.: A group of Navajo Indians under the leadership of Bi-a-lil-le threatened serious trouble upon the Navajo Reservation. Upon the representations of the Secretary of the Interior, the Secretary of War sent two troops of cavalry into the vicinity of the reservation to serve as a repressing influence upon the Indians. After a conference with the Indian agent, the officer in command of the troops determined it to be wise to arrest Bi-a-lil-le and certain of his companions. Accordingly, he made a night march to Bi-a-lil-le's camp and captured him and his immediate followers about daybreak the next morning. While this arrest was being made, the troops were fired upon by other Indians in the vicinity. The fire was returned. The casualties were two Indians killed and one wounded; except that a horse of one of the soldiers was killed. Upon the recommendation of the Secretary of the Interior, without a trial or hearing of any sort, Bi-a-lil-le and seven of his companions were transported to Fort Huachuca, Ariz., "where," to quote the Secretary of the Interior, "they are to be confined for an indefinite period at hard labor. They can be released whenever it may be deemed wise to do so, each case to be considered on its own merits. The time for the release of these prisoners has been left to the judgment of the war Department."

These Indians, setting up in detail the facts of which the foregoing statement is a brief abstract, and averring that their detention is unlawful, petitioned the district court of the second judicial district for a writ of habeas corpus directed to the commanding officer at Fort Huachuca to the end that they be discharged. The writ was denied, and from its denial petitioners have prosecuted this appeal. The contention of petitioners is that they are deprived of liberty without due process of law, in contravention of Article V of the amendments to the Constitution of the United States.

The detention of these Indians is supported by the respondent upon three contentions. One of these contentions is that it is authorized by the provisions of section 2149, Revised Statutes of the United States, which reads as follows:

"The Commissioner of Indian Affairs is authorized and required, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person being therein without authority of law, or whose presence within the limits of the reservation may, in the judgment of the commissioner, be detrimental to the peace and welfare of the Indians; and may employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person."

The inadequacy of this contention is self-evident. Authority to remove troublesome persons from a reservation does not imply authority to detain them in confinement after such removal; hence the detention of these Indians is not maintainable by reason of the provisions of this section or of any of its implications.

The second centention is that the facts disclosed the petitioners to be prisoners of war, and hence lawfully to be held in military custody. We do not infer, from the facts, that a state of war existed at the time of the apprehension of the petitioners, nor does it appear that it was or is the view of the Secretary of the Interior or of the Secretary of War that a state of war existed then, or exists now between the Indians and the United States. It affirmatively appears that, though in the custody of the War Department, these Indians are maintained at the expense of the Interior Department and are to be confined at hard labor for an indefinite period as a punishment to them and an object lesson to the rest of their tribe, in the language of the Secretary of the Interior, because they "have defied the Government and its authorities; they have impeded the progress of the other Indians in their efforts to improve and better their condition; they armed themselves, * * * threatened to kill any person or persons who molested them, and fired first upon United States troops in the discharge of their duty." Confinement at hard labor is a characteristic of the punishment of criminals and not, under the code of modern civilized warfare, an incident of the detention of prisoners of war. We do not assume that we have jurisdiction to interfere with the treatment accorded them, were they, in fact, prisoners of war; but we point to the fact of their confinement at hard labor as inconsistent with a theory that they are regarded by the executive departments as prisoners of war. The consideration and freedom from unnecessary restraint which, within our judicial knowledge, marked the detention of Spanish prisoners during our recent war and has marked the detention, as prisoners of war, of Geronimo and his band of Apaches, warrant, as fully as our patriotic pride also demands, that we attribute to the executive departments the most enlightened chivalry in their attitude toward prisoners of war. It is manifest that petitioners are not prisoners of war.

As a third contention, it is urged with great earnestness that the Indians are but wards of the Government and therefore are subject to administrative correction of their conduct as are other wards to the correction of their guardians; that the disposition which has been made of these Indians is pursuant to a long-followed policy of the departments of the Interior and of War; and that it is highly salutary in safeguarding the relations of the Indians to the Government and to their white neighbors, and, indeed, among themselves. However salutary in its results and desirable such a method of dealing with recalcitrant Indians may be, and however long such a system may have prevailed, it can not be sanctioned unless there is authority for it in the acts of Congress. Indians are not wards of the executive officers, but wards of the United States, acting through executive officers, it is true, but expressing its fostering will by legislation. We may pass as unnecessary to determine the question whether Congress may constitutionally vest in executive officers such summary authority as is here sought to be exercised. Our attention has not been directed to legislation expressly authorizing such summary methods. Comprehensive authority is conferred upon the President by sections 463 and 465, Revised Statutes of the United States, to control the conduct of Indian affairs by his regulations; but we do not find a general rule or regulation promulgated by or under the authority of the President applicable in this case.

The Supreme Court of the United States, in Bad Elk *v.* United States (177 U. S., 529), has held that an executive officer in the Indian Service has no authority to direct arrests in the absence of law, rule, or regulation authorizing such direction, and that the conduct of an Indian is not to be held misbehavior in the absence of a law, rule, or regulation so defining it. Among the necessary implications of that decision is that, there being no law, rule, or regulation defining what conduct of Indians shall be deemed reprehensible and subject them to correction, it does not rest in executive discretion to administer corrective punishment. We deem this conclusion inevitable and determinative of this case, irrespective of the question whether such summary discipline might be sustained if pursuant to a rule or regulation.

The position of these particular petitioners, members of the Navajo tribe, is fortified by one of the stipulations of the treaty between the United States and the Navajos, which is as follows:

"If bad men among the Indians shall commit a wrong or depredation upon the person or property of anyone, white, black, or Indian, subject to the authority of the United States and at peace therewith, the Navajo tribe agree that they will, on proof made to their agent and on notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws." (Art. I, treaty of June 1, 1868. 15 Stat. L., 667.)

This stipulation amounts to a covenant that bad Indians shall not be punished by the United States except pursuant to laws defining their offense and prescribing the punishments therefor. While Congress by its legislation may disregard treaties, the executive branch of the Government may not do so.

The district court was in error in denying the writ of habeas corpus.

The proceedings in the court below were solely upon the petition. The United States attorney appeared on behalf of the United States and argued against the granting of the writ without filing a demurrer or other formal pleading. The trial judge rendered an opinion in writing, which appears as part of the record, in which we find it has been suggested by the court and agreed to by counsel that, in effect, "the ruling may be as though the writ had been granted and the applicants were here in person before the court. * * * If the writ should be granted by the court, the granting of the writ would be equivalent to the release of the applicants for the writ, and the writ will not be denied unless the court is satisfied from the hearing that the applicants would be remanded to the custody of those now having them in charge." The petition contains at full length what purport to be all of the proceedings of the departments of the Interior and of War, resulting in the detention of petitioners. In view of that fact, we construe the expression of the trial court as disclosing the stipulation that if the facts upon the petition disclose that petitioners are entitled to be discharged. the judgment of the court should be to discharge them. Therefore it will be adjudged that the judgment of the trial court be reversed and that the petitioners be discharged, with leave to the respondent, however, to present within fifteen days reasons, if any there be, why instead of discharging the petitioners we should remand the cause with direction to the trial court to grant the writ.

FREDERICK S. NAVE,
Associate Justice.

We concur:
EDWARD KENT, *Chief Justice.*
RICHARD E. SLOAN, *Associate Justice.*
JOHN H. CAMPBELL, *Associate Justice.*

SUPREME COURT,
Territory of Arizona, ss:

I, F. A. Tritle, jr., clerk of the supreme court of the Territory of Arizona, do hereby certify the foregoing to be a full, true, and correct copy of the opinion rendered by said supreme court on the 20th day of March, A. D. 1909, in the matter of the application of Bi-a-lil-le and seven others for a writ of habeas corpus.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 25th day of March, A. D. 1909, at Phoenix, Ariz.

[SEAL.] F. A. TRITLE, Jr.,
Clerk Supreme Court of Arizona.

In the supreme court of the Territory of Arizona, No. 273.

In the matter of the application of Bi-a-lil-le and seven others for a writ of habeas corpus.

At this day respondent gave notice of appeal to the Supreme Court of the United States, and moved the court that applicants be held on bail until the determination of the appeal by the Supreme Court of the United States under rule 34 of said Supreme Court, and it was ordered by the court that the notice of appeal be noted and that applicants be each enlarged in the sum of $5,000; and it was

Further ordered that respondent may have leave to withdraw its notice of appeal upon application to the Chief Justice therefor.

SUPREME COURT,
Territory of Arizona, ss:

I, F. A. Tritle, jr., clerk of the supreme court of the Territory of Arizona, do hereby certify the foregoing to be a full, true, and correct copy of the order made and entered by said supreme court on the 20th day of March, A. D. 1909, in the matter of the application of Bi-a-lil-le and seven others for a writ of habeas corpus, admitting applicants to bail.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this 25th day of March, A. D. 1909, at Phoenix, Ariz.

[SEAL.] F. A. TRITLE, Jr.,
Clerk Supreme Court of Arizona.

Question of "law or no law" in treatment of the Indians.

REPLY OF THE INDIAN RIGHTS ASSOCIATION TO COMMISSIONER LEUPP'S SURPRISING ASSERTION.

[From the Springfield (Mass.) Republican, March 15, 1909.]

To the editor of the Republican:

The question raised by Commissioner Leupp in his article on "Law or no law in Indian administration," in The Outlook of January 30, is of fundamental importance. The Indian Rights Association has undertaken to test the validity of his conclusion as to the relation of an executive agent to the law by an appeal to the courts; but it is eminently desirable that the public, who read the commissioner's vehement explanation, should know the issues involved. They are much larger than the question whether the commissioner was misrepresented by those who quoted his own words, "law or no law," as the keynote of his remarks about the Navajo Indians. But we must not fall into the custom which, according to Freeman, spoils so much historical writing, and content ourselves with allusions instead of telling a plain tale. The commissioner began his explanatory statement with the Mohonk conference, but the controversy can not be understood without going further back and beginning at the beginning.

In October, 1907, William T. Shelton, superintendent of the Eastern Navajo Reservation, Shiprock, N. Mex., requested that cavalry be sent into his reservation to arrest a troublesome Navajo named Bi-a-lil-le, that he might be confined long enough to show that the time for bad men was past; or, if this were not thought expedient, that the troops might be stationed in the vicinity of Bi-a-lil-le's camp long enough to give the Indian police courage. The more drastic of the two methods was chosen. The cavalry surrounded the Indians' hogans at daylight, and arrested Bi-a-lil-le and his men. There was some shooting by the soldiers and on the part of some Indians in the vicinity, though not by the prisoners, and two Indians were killed by shots in the back. A search of all the hogans only brought to light three old rifles, one Colt's revolver, and several knives. Such a lack of warlike equipment suggests that the milder remedy of camping in the vicinity by the troops would probably have been sufficient to overawe the Indians and reduce their spirits to the necessary subordination. Still, it is easier to discern the right course in the light of experience, and there is here no controversy over the killing of these Indians and the arrest of the band. They had been made to feel most unmistakably the power of the Government, and it might have seemed that they had been sufficiently schooled. If it was not thought wise to allow them to remain on the reservation, the superintendent had the undoubted authority to remove them, or if he was unwilling to set them at liberty in new scenes, he might have brought them into court. Western courts are not generally weakly indulgent to the red man. Neither of these lines of action, however, was taken. Without the decree of any court, martial or civil, Bi-a-lil-le and seven other Indians were incarcerated, with the approval of the commissioner, in a military prison in Arizona, at hard labor for an indeterminate period.

At the conference at Lake Mohonk, last October, Mr. Leupp tells us that he was intensely indignant when he heard that a resolution was to be offered that would test the sense of the conference upon such imprisonment without trial. The commissioner is obliged to admit that in his vehement anticipatory defense he said that he would take such measures if he thought the public safety required it, "law or no law." This language does not appear in the report, and the commissioner withdraws it as too crude and unqualified. Still, he claims that his character for clemency and fairness is so well known that it should have protected him from misconstruction. So, if he is obliged to confess that he spake unadvisedly with his lips, he also feels it necessary to charge his critics with "dishonesty" and "malice." After learning the facts and reading this explanation, most people will probably agree that the blunt and pointed expression that he withdraws describes his attitude very fairly. After all, the point of language is of minor importance. The main points are Mr. Leupp's attitude toward those who differ from him and his theory of the relation of the law to the public welfare.

The commissioner asserts with pride that his policy of treating Indian offenders in a state of barbarism by dealing out justice according to his own personal views has justified itself by its success, on the principle that "the proof of the pudding is the eating." No one, however, can read his passionate article, with its charges upon his critics of "malice," "dishonesty," "paltering," "vituperation," and "angry clamor," without realizing that his theory has made our commissioner a very lofty personage, who is inclined to regard any difference of opinion about the legality of his acts as a proof of moral obliquity. So far is he from inviting scrutiny and welcoming an interchange of opinion, that the very idea of the expression of criticism filled him with indignation, as he confesses in his case. Yet, if the Indian Commissioner has the right to put Indians in prison without trial, simply upon his own judgment that a prison is the best place for them, such a tremendous power ought to be carefully watched, and such a conference as Mohonk might well interest itself in the wisdom with which such extraordinary authority was exercised.

Indian agents, through whom he must gain his information, are but fallible men; and it was no less a person than Lincoln who said that no man could safely be trusted with absolute power over another. Indian agents are not a class of men who, according to the opinion of them expressed by President Roosevelt in a recent message, can wisely be allowed to feel themselves exempt from criticism. Even if the criticism should prove mistaken, the discussion could hardly fail to do good. It was, however, resented deeply by Mr. Leupp, and is characterized in scathing terms. His known kindness and clemency, he holds, should have prevented anyone from regarding the imprisonment of Indians for sixteen months without trial as an act of oppression. This is certainly a great claim.

There are, however, many who believe that the law of the land is a better defense of our rights than the kindly temper of our officials. Indeed, it is the deepest source of our controversy with the commissioner that on his statement at Mohonk and in his treatment of these Indians he shows an inadequate sense of the value of law as a means of securing the public weal. He ignores the courts. His theory is that the public safety is to take precedence of the public safeguards. This mistake lay at the bottom of the worst excesses of the French Revolution. To quote Lord Morley:

"Couthon laid the theoretic basis [of the infamous law of Twenty-second Prairial] in a fallacy that must always be full of seduction to shallow persons in authority: 'He who would subordinate the public safety to the inventions of jurisconsults and to the formulas of the courts is either an imbecile or a scoundrel.' As if the public safety could mean anything but the safety of the public! 'All becomes legitimate and even virtuous,' Helvetius had written, 'on behalf of the public safety.' But Rousseau was wiser in his marginal note: 'The public safety is nothing unless the individual enjoys security.'"

Have we not an example of Couthon's fallacy in the commissioner's article in the Outlook, when he writes: "The mere technical definition of the rights of any person under the law is always subordinate to the question of the social order?" What better way is there of teaching an Indian the greatness of the law than by showing that it can save as well as punish? How can the social order be better preserved than in the exaltation of the law? Bi-a-lil-le and Polly, with their companions, in prison for sixteen months, knotting on a cord the days of their imprisonment at the discretion of a distant commissioner, will hardly agree that the right to liberty or a fair trial comes under the head of a "mere technical definition."

In spite of the warnings of the commissioner of possible evils in consequence of the liberation of these men, the Indian Rights Association applied for a writ of habeas corpus. The court of first instance denied the application, but the denial was anticipated. Nevertheless, something has been accomplished, since six of the prisoners have since been released. An appeal has been taken in behalf of the other two, and the friends of order and liberty will not rest until, if necessary, the Supreme Court of the United States has decided whether or not Indians are persons within the meaning of the article of the Constitution that declares that no person (except certain classes in which Indians are not included) shall be deprived of life, liberty, or property without due process of law. Of one thing we may be absolutely certain, and that is that the greatest tribunal in the world, as Bryce has taught us to call it, will give no countenance to the doctrine, so fruitful of tyranny and injustice, that the law can be safely ignored if in the judgment of an official its restraints stand in the way of the public welfare.

CARL E. GRAMMER,
President of the Indian Rights Association.

PHILADELPHIA, *March 1, 1909.*

DEPARTMENT OF JUSTICE,
Washington, June 22, 1909.

SIR: In accordance with your oral request to be informed of the action of the department in the matter of the prosecution of the appeal in the Supreme Court in the case of Bi-a-lil-le and others, petitioners for a writ of habeas corpus, I beg to say that after careful consideration of the matter the Government has decided not to prosecute the appeal. Instructions have to-day been given to the United States attorney for Arizona, by wire, to ask leave of the chief justice of the supreme court of Arizona, in accordance with an order of that court, to withdraw notice of the appeal; also instructing him to have the petitioners discharged from custody at once, and stating that this department has requested the Secretary of the Interior to arrange, by wire, to have the petitioners restored to their homes in the Navajo Reservation at government expense.

Respectfully,

LLOYD W. BOWERS,
Acting Attorney-General.

S. M. BROSIUS, Esq.,
Agent Indian Rights Association,
McGill Building, Washington, D. C.

BILLS INTRODUCED.

Bills were introduced, read the first time, and by unanimous consent the second time, and referred as follows:

By Mr. SMITH of Michigan:

A bill (S. 2787) to discontinue suit in United States court against James C. Eslow, surety; to the Committee on the Judiciary.

A bill (S. 2788) to remove the charge of desertion from the military record of William H. Smith; to the Committee on Military Affairs.

A bill (S. 2789) granting a pension to Catherine O'Keefe;

A bill (S. 2790) granting a pension to Emeline Fields;

A bill (S. 2791) granting an increase of pension to Gardner B. Clark;

A bill (S. 2792) granting an increase of pension to J. A. Stephenson;

A bill (S. 2793) granting an increase of pension to Charles H. Eding; and

A bill (S. 2794) granting a pension to Katherine Van Strate (with accompanying papers); to the Committee on Pensions.

By Mr. TALIAFERRO:

A bill (S. 2795) granting an increase of pension to Nicholas Graddick (with accompanying papers); to the Committee on Pensions.

By Mr. BOURNE:

A bill (S. 2796) granting an increase of pension to Joseph Thomas (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 2797) granting an increase of pension to Josephine S. Jones (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 2798) granting an increase of pension to Jesse Gray; to the Committee on Pensions.

AMENDMENTS TO THE TARIFF BILL.

Mr. BURTON submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States,

and for other purposes, which was ordered to lie on the table and be printed.

Mr. DICK submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

THE TARIFF.

The VICE-PRESIDENT. The morning business is closed, and the first bill on the calendar will be proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.

Mr. BEVERIDGE. Mr. President, I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Chamberlain	Frye	Page
Bacon	Clark, Wyo.	Gallinger	Perkins
Bailey	Crane	Heyburn	Piles
Beveridge	Cullom	Hughes	Scott
Borah	Cummins	Johnson, N. Dak.	Shively
Brandegee	Curtis	Johnston, Ala.	Simmons
Briggs	Daniel	Jones	Smith, Mich.
Bristow	Davis	Kean	Smith, S. C.
Brown	Dick	Lodge	Smoot
Burkett	Dillingham	McCumber	Sutherland
Burnham	Dixon	Nixon	Taliaferro
Burrows	Fletcher	Oliver	Taylor
Burton	Flint	Overman	Tillman
Carter	Foster	Owen	Warner

The VICE-PRESIDENT. Fifty-six Senators have answered to their names. A quorum of the Senate is present.

Mr. OWEN. Mr. President, I want to ask permission to place upon the record a statement.

The Senator from Arkansas [Mr. DAVIS] was detained from the Senate by the death of his wife, and not being able to return because of the demands made at home, he requested that during his absence he be paired in favor of free lumber, free wood pulp, free hides, free iron ore, and generally for free raw materials. It not being customary to make this announcement as the votes were taken from time to time, I failed to make any announcement of the matter, although he desired to have it done. I merely wish to have it placed on record so that his position in the matter might not be misunderstood.

Mr. BROWN. Mr. President, I ask unanimous consent for the present consideration of the joint resolution reported from the Committee on Finance yesterday, proposing an amendment to the Constitution of the United States which shall authorize the levying of a tax on incomes.

Mr. ALDRICH. I am quite willing to have that done, provided it can be agreed upon that there shall be no debate.

Mr. BEVERIDGE. Mr. President, I wish to make a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Indiana rises to a parliamentary inquiry.

Mr. BEVERIDGE. Unanimous consent having been given, can that unanimous consent be displaced by a subsequent unanimous consent? I think that question has been raised four or five times in the Senate.

The VICE-PRESIDENT. The Chair would suppose that it could, of course.

Mr. BEVERIDGE. I should like to know the opinion of the Senator from Maine and the Senator from New Hampshire about that matter. The question has been discussed here four or five times as to whether or not a unanimous consent having been entered into subsequently it could be destroyed or modified by a unanimous consent.

The VICE-PRESIDENT. The Chair would think that the Senate could take any action it desired at any time by unanimous consent.

Mr. BAILEY. Mr. President, I do not concur in the view that a unanimous consent once granted can be set aside. I do not think the Senator from Nebraska would ask that, or any other Senator. I think when a Senator gets unanimous consent he can at least be sure that that will not be set aside. That is one of the things which I think the Senate could not do. But it is at the most an understanding, and that understanding one Senator might say would interfere with a unanimous consent or violate its spirit at least; another might not. But in view of the fact that the Senator from Nebraska always voted not to settle this income-tax question until these schedules were finished, he will have to take his own course. I object.

The VICE-PRESIDENT. Objection is made.

Mr. BROWN. I have no desire to press it. I simply wanted to give the Senate an opportunity, if it was willing at this time, to get the Constitution out of the question for future days at least. It seemed to me that the friends of an income-tax law, and its enemies as well, could find no objection to remitting to the States an opportunity to give Congress the undoubted power to pass a law that would be valid after it was passed. But it need not be considered now. I do not press it.

Mr. BAILEY. Of course quite a number of us here think that is not necessary, and yet would not object to doing an unnecessary thing, provided we were sure it was not a hurtful thing. At any rate, I think the entire question ought to be considered together. I should myself prefer to pass an income-tax bill or amendment, and then if any Senator doubted the constitutionality of it, I would relieve his doubts by passing the amendment proposed by the Senator from Nebraska or any other suitable amendment. But I hardly think we ought to discuss that until we find what we are going to do about the other. I hope the Senator will let the matter go until then.

Mr. BEVERIDGE. Upon the general parliamentary question which I addressed to the Chair, I think it has been the practice in the Senate always where a unanimous consent is entered upon that it could not afterwards be destroyed by a subsequent unanimous consent, the reason being the very fact that there might be different people there; that the men who had agreed to the unanimous consent in the first place, and relying upon it, might be away in committee rooms and at work, or elsewhere, and there would be a unanimous consent obtained later which would destroy that one, and to any Members of the Senate who believed that the original unanimous consent was operative and relied upon that unanimous consent an injustice would be done. I think that has been practically the practice in the Senate.

Mr. CULLOM. I call for the regular order.

Mr. BEVERIDGE. I merely take a moment now to call attention to it, because, as a matter of fact, it is a parliamentary question which we ought to have the Chair to rule upon.

The VICE-PRESIDENT. The Chair understood that it was practically a moot question, and therefore simply announced his impression without making a distinct ruling.

Mr. BEVERIDGE. Unanimous consent, of course, being something for the Senate itself to determine after it has so agreed, there ought not to be any wrong impression about the unanimous consent. Of course, a unanimous consent is not binding as a parliamentary proposition at all. Any Senator who sees fit to do so can at any time violate a matter of unanimous consent. It is a matter of his own conscience. But the rule of the Senate has been that when a unanimous consent has been entered into it can not subsequently be modified or destroyed by a unanimous consent.

Mr. CULLOM. I call for the regular order.

Mr. TILLMAN. Mr. President, agreeing in the main——

Mr. ALDRICH. Will the Senator yield to me for a moment?

Mr. TILLMAN. I just wanted to discuss the proposition in one sentence. I am not a parliamentarian, but I have great faith in common sense. While I agree with the contention of the Senator from Indiana as to there being a possible absence of men who agreed to a unanimous consent once, whose rights would be invaded if it was afterwards changed, the Senator himself will not deny that the entire Senate can always change a unanimous consent. In other words, whenever a man who was present at the preceding session when a unanimous consent was given is there and the roll shows that every Senator is in his place, it is utterly absurd to say that the Senate can not change the unanimous consent.

Mr. BEVERIDGE. It is more absurd in appearance than in reality. A sufficient answer to that is what I believe has been the unbroken practice of the Senate. Otherwise a unanimous consent, which has no legislative binding at all, but only a binding upon the honorable understanding of Senators, might be made absolutely worthless.

Mr. TILLMAN. In that case the Senate would be binding itself to something it could not undo. It would be like a law of the Medes and Persians.

Mr. BEVERIDGE. Of course, as I said two or three times, any Senator can violate a unanimous consent from a parliamentary point of view.

Mr. TILLMAN. But only the whole Senate can change a unanimous consent.

Mr. BEVERIDGE. It is binding in honor only as an understanding among Senators; but once entered into, as a matter of fact no Senator ever violates it, and as a matter of practice it never has been violated.

Mr. TILLMAN. Unless the whole Senate were present at the time.

Mr. BEVERIDGE. Not even then.

Mr. CULLOM. I call for the regular order.

Mr. ALDRICH. The amendment of the Senator from South Carolina [Mr. TILLMAN] is before the Senate. I desire to give notice that when that amendment is disposed of I shall move to lay any other amendment upon the table with reference to the schedules of the dutiable list or the free list, believing that we have arrived at a point where it is necessary to close that part of the bill.

Mr. JONES. Mr. President——

Mr. ALDRICH. In just a moment. Of course any Senator can offer an amendment to the bill when it may reach the Senate, but it is necessary to bring the matter in Committee of the Whole to a conclusion. Therefore, in behalf of the committee, I will move to lay on the table any amendment which may be offered to the schedules after the amendment of the Senator from South Carolina is disposed of.

Mr. JONES. I desire to suggest to the chairman of the committee that I have an amendment pending with reference to the arsenic proposition.

Mr. ALDRICH. No Senator will lose any rights whatever. As I have suggested already, the Senate expects to proceed with the consideration of the income-tax amendment, and I think, in justice to all, I must insist upon the rule which I have suggested. The Senator from Washington will have a full right in the Senate. Of course he can test the sense of the Senate in regard to laying on the table.

Mr. JONES. I understand that, Mr. President, and I think it would take only just about as much time now as it would afterwards. When I brought up the amendment in the Senate I asked that it might go over, and that was done, and yesterday in my absence——

Mr. ALDRICH. The paragraph was reached on yesterday. I am not sure whether the Senator was present or not.

Mr. JONES. It was during my absence. I was absent for a while yesterday. I have no particular objection to bringing up the matter in the Senate.

Mr. ALDRICH. I will say to the Senator from Washington, I think the best thing to do, as we have to come to an end of this at some time——

Mr. JONES. I am willing to accommodate myself to the action of the chairman of the committee in the matter.

Mr. OWEN. Mr. President, I wish to enter a protest against the action of the chairman of the committee in refusing to have considered in Committee of the Whole any further amendments. I have waited with great patience until the committee amendments were disposed of, having an amendment to the schedules which I regard as of great importance, and which I shall submit at the first opportunity.

I think the Committee of the Whole should consider the amendment, and therefore I think it proper to enter a protest against the proposed action of the committee in announcing in advance that it will not agree that the Committee of the Whole shall consider an amendment which is offered by a Senator to the schedules.

Mr. ALDRICH. I hope the Senator from Oklahoma did not understand the statement in that way. Of course I can not control the action of Senators in offering amendments or in discussing them. I simply said that as far as the committee was concerned they consider the schedules on the dutiable and the free list closed for the Committee of the Whole, and I shall in their behalf move to lay any amendment on the table which may be offered.

Mr. OWEN. I do not at all underestimate the announcement of the Senator from Rhode Island. He announces the action of the Senate substantially, because it is the practice of the Senate to respond to the desire and will of the Committee on Finance, and, in effect, the announcement is that the Committee of the Whole will not pass upon an amendment, no matter how important, but that the chairman will move to lay it on the table. Immediately after the disposition of the amendment offered by the Senator from South Carolina I shall offer a series of amendments to the schedules.

Mr. BEVERIDGE. Mr. President, in view of the announcement of the Senator from Rhode Island that the committee will consider the schedules closed after the vote is taken on the amendment of the Senator from South Carolina, I wish to suggest to the committee whether it would not be advisable and necessary at this time, at the conclusion of the schedules, to have the following things done for the use of the Senate—that is to say, have a print made of the various sections of the present law first; of the House bill second; of the bill reported by the Senate committee third; and of the bill as now amended, in parallel columns, from which it can be seen at a glance what the changed language is,

Second, that this volume of Estimated Revenues shall have added to it in italics a very simple thing, the changes that now have been made in the rates, so that we may see at a glance what they are.

And third, that the increases which have been made and the decreases which have been made since the bill was reported to the Senate shall be printed, so that they may be seen at a glance, each of the documents to be separate documents.

I suggest the printing of that to the chairman of the Finance Committee for the use of the Senate. Of course, there is no hurry about it, but now as we are about to close the schedules and enter into a discussion which may be either brief or protracted, it will not be a hardship upon anybody and will be a great convenience to Senators.

Mr. ALDRICH. I suggest to the Senator from Indiana that he put his proposition in writing, because it will be impossible——

Mr. BEVERIDGE. Very well; I will put it in writing, and hand it to the chairman of the Committee on Finance. I am sure it will meet with his approval, as I am sure it meets with the approval and desires of a great majority of Senators. I venture to express the hope that during the discussion which we are now about to enter upon, a new and important piece of legislation, the country will not in the meantime have its attention too greatly diverted from the schedules.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. TILLMAN].

Mr. McLAURIN. I should like to have the amendment read.

The VICE-PRESIDENT. The Secretary will read the amendment.

The SECRETARY. Insert as a new paragraph the following:

258½. Tea, 10 cents per pound.

Mr. TILLMAN. Mr. President, yesterday afternoon, when I attempted to discuss this amendment, the Senate Chamber was so insufferably hot that before I completed my remarks entirely it was suggested that it would be better to postpone a vote and let us adjourn, which was very agreeable to me, because I felt that it was possibly dangerous to remain longer in this muggy and overheated atmosphere. I do not propose to make any speech this morning, but I want to briefly recapitulate or sum up the points which were made and the statement of the facts. We are discussing a bill which has for its purpose, and its title is, "To provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes."

This amendment will add to the revenues of the Government between nine and ten million dollars. It is levied on an article of luxury, in a way, because tea is not a drink of the poor in this country, but is largely confined to the better classes, or more comfortably situated and more prosperous people, and it is not very largely consumed, anyway. The per capita consumption of tea in England is about 6 pounds; in America it is only one-half or a little over. Therefore we could get the $9,000,000 without burdening anybody especially, and least of all those who are least able to bear it.

I have the evidence, and when I say evidence I mean evidence that would be admitted in court, that would have weight with juries, the statements, sworn to, of reputable witnesses, or the extracts and quotations from the actual documents of the trade, showing the prices of tea. One remarkable thing about it is that those who ought to know and whose word I take tell me that this additional tax will not increase the price one cent. It is entirely contrary to all my ideas in regard to a tariff, because it is axiomatic with me that the consumer pays the tax; but tea seems to be the one exception, and the proof is that when the tax was laid on at the time we were increasing our revenues on account of the Spanish war the retail price of tea did not go up, and when the tax was removed in 1901 the retail price of tea did not go down. The duty was 10 cents a pound from 1898 to 1901.

It would therefore seem to be a fact that this will not be a burden to anyone. Secondly, it is shown by the evidence that the only change which would come into the tea situation would be that we would get a better article of tea, with less trash and dirt, at the same rates.

To those of my friends on this side who are sticklers for the doctrine of a tariff for revenue only, or a tariff for revenue—I believe we have about agreed among ourselves that "only" has no business in there and never ought to have been put there, and does not really embody the Democratic position either of the past, prior to Mr. Cleveland's administration, or since Mr. Cleveland was discredited as a Democratic leader—but to my friends on this side who want to levy a tariff for revenue, with the purpose of revenue only, here is a typical tariff schedule,

because it gives $9,000,000 of revenue, we will say, and the beneficiaries, the incidental or accidental beneficiaries, would get protection. The production of tea, for instance, in the South is 12,000 pounds, we will say, and we get $9,000,000 revenue with $1,200 protection. There may be some stiff-backed Democrat over here who can not agree to that much protection, but I hope not. I ought therefore to get every vote among Democrats for this proposition.

Now, turning to the other side, there is here a protective idea which embodies a long-continued, persistent policy of the Republicans in this country to throw around any production of this country a tariff tax with the purpose of protecting that article of production, with a view to increasing its quantity and saving to the American people the money which we would send abroad to buy tea.

Mr. SCOTT. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from West Virginia?

Mr. TILLMAN. With pleasure.

Mr. SCOTT. I wish to ask the Senator from South Carolina if he really thinks if we put this duty of 10 cents a pound on tea, it will encourage the growing of tea in the United States to any susceptible extent? Is it a kind of industry that we can build up by putting a duty on tea, in the opinion of the Senator from South Carolina?

Mr. TILLMAN. Mr. President, I want to say on my word of honor as a man that from my investigation we have in the South, and especially in South Carolina, the possibility of not only supplying all the tea which we need in America, but of becoming an exporter of tea.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Montana?

Mr. TILLMAN. With pleasure.

Mr. DIXON. I have been very much interested in the Senator's exposition of the possibility of growing tea in the United States, and I am convinced that if some practical, sensible plan can be devised South Carolina, Florida, and other Southern States will produce all our tea without any question. The sample which the Senator kindly gave me a few days ago I gave to my wife and she says it is equal to the best English breakfast tea.

While I am a pretty good protectionist, I want to say this would be going pretty far. Why does not the Senator accept the suggestion and take a 10 cents per pound bounty for ten years? I think it would accomplish the same result as putting us in the attitude of protecting only a 10,000-pound industry. I think 10 cents a pound paid as a bounty from the Federal Treasury for ten years would develop your tea industry to an extent that would practically supply the United States. As a practical man asking for practical results, why should not the Senator change his amendment to a bounty? I believe the Senate would vote it, and I believe he would render a great service to his State and to his country.

Mr. TILLMAN. Mr. President, the idea of taxing the people to get money into the Treasury for the purpose of paying it out to some person as a bounty to encourage that person to engage in a certain calling or industry is obnoxious to every principal of Democracy or genuine Republicanism that I have ever heard of. It is taking something for nothing. It is taking from one man and giving to another. It is bad enough to levy a tariff duty for the sole purpose of protecting some industry. It is infamous to levy a tariff duty or any other duty to get money to pay as a bonus to some one.

Mr. DIXON. And if the Senator will pardon me, he does not object to Congress levying this tariff duty?

Mr. TILLMAN. Not at all; I plead for it. You gentlemen on the other side who clamor in season and out of season for the protection of American industries should help to give me this duty.

Mr. DIXON. The Senator will take a little of the infamous conduct——

Mr. TILLMAN. There is no infamy about it, because it is a tariff that is going to bring $9,000,000 revenue with twelve hundred dollars' protection. If it shall grow to be a great industry, it will flourish in South Carolina, Louisiana, and Texas, I believe, because it seems to be the fact that wherever cotton will grow there tea will grow, the only difference being that the farther edge of the cotton belt, where it is too dry to make tea, will still make very good cotton. It will not make tea, because tea is the product of the leaves of the plant which are plucked and dried, and you must have rain to get leaves. You can get a crop of cotton even with the leaves all shriveled up and, apparently, the plant half dead, but you can not get tea that way.

I do not want the Senator to endeavor to tempt me to depart from the straight path of rectitude and inveigle me into the Republican programme or scheme under the plea of a bonus. If you were to offer me a dollar a pound bonus on this business, I would not vote for it. I am not here seeking for any selfish interest for South Carolina. I hardly know this man Shepard, but I know that all along the coast of South Carolina, where this tea farm exists and where successful cultivation has been demonstrated beyond all possibility of dispute, there is a very large area of the same land adapted to tea culture, and it only awaits the hand of capital to use the labor already there, because the negroes outnumber us—they are practically six and eight and ten to one. It will give employment to these people and bring into the South a new industry which will aid us to recover our fortunes, which were so nearly completely destroyed by the war. I say if this tea would grow as well in Montana as it does in South Carolina, you would have a tariff on tea, and you would have one as soon as you found that you could grow it there.

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Michigan?

Mr. TILLMAN. With pleasure.

Mr. SMITH of Michigan. Can the Senator from South Carolina tell us where the market for this domestic tea is at the present time? Is it confined to South Carolina?

Mr. TILLMAN. My impression is that the small quantity produced does not enable Doctor Shepard to enter into competition with the imported tea; but it has been bruited around in one direction and another that there is native tea produced down there of very superior quality, and it is known to men like our distinguished colleague from Idaho [Mr. HEYBURN], who told me yesterday evening that he had been using this tea for six years and had become a kind of habitué of it. He does not want any other, because it is the best in the country.

Mr. SMITH of Michigan. The point I desire to make is this: On examining the statistics, I find that the production of tea has increased from year to year since 1891.

Mr. TILLMAN. Down there?

Mr. SMITH of Michigan. Down there.

Mr. TILLMAN. It is just this one man, who, having found that it was sufficiently productive and remunerative, gradually increased his garden. He has established a means of obtaining negroes who are intelligent by negro schools. He furnishes the teacher and invites negro children of the surrounding neighborhood to come to school. He teaches them all winter, when the tea is not growing, and then he gives them employment in the summer to go into this tea garden to pluck the leaves, and they make a little pittance of 15, 20, or 30 cents a day. They are little tots of 6, 8, and 10 years old, too young and small to go into the cotton field.

Mr. SMITH of Michigan. Mr. President, I understood the Senator from South Carolina to say that they get a higher price for this American tea than is paid for imported tea.

Mr. TILLMAN. Certainly. I presume the consumer pays a very high price for his imported tea, but the retail dealer, who buys from the importer, would not touch Shepard's tea because he could not make as much profit on it as on the other tea. It was shown in the evidence which I produced yesterday evening that no tea is retailed in America for less than 40 cents a pound. The average price to the retailer is about 15 cents a pound. From 250 to 500 per cent is made on every pound of tea which is sold to the American consumer.

Mr. SMITH of Michigan. One more question, if the Senator will permit me. I understood him to say that when we imposed a tax upon tea, it did not add to the cost of the tea?

Mr. TILLMAN. To the consumer.

Mr. SMITH of Michigan. To the consumer?

Mr. TILLMAN. Not a cent; but that tariff or tax was paid by the exporter or the importer.

Mr. SMITH of Michigan. It is paid by the man who grows the tea in Japan and in China and by the importer here. The retailer simply keeps the same old price per pound, and he pays the Government the tariff, whereas the Japanese producer or the Chinese producer has to reduce his price or lose some of his profit.

Mr. TILLMAN. I find, on examining these reports, that a reputable body have decided that they will obligate themselves to this Government that, in the event of a tariff of 10 cents a pound being put upon tea, its price will not be increased to the consumer in this country.

Mr. SMITH of Michigan. Yes; I understand there is such a body.

Mr. TILLMAN. And they will agree to furnish that tea without additional cost.

Mr. SMITH of Michigan. And furnish a bond of good faith and responsibility.

Mr. TILLMAN. Here is the proposition right in this paper I hold in my hand.

Mr. SMITH of Michigan. Mr. President, I can not conceive of a better case than that made by the Senator from South Carolina. It is strictly within every rule of protection. If we can absolve our people from the necessity of sending abroad millions of dollars to pay for foreign tea, and can retain that money in the circulating medium of our country for the benefit of our own people, I do not understand why we should not be willing to do it.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. TILLMAN. With pleasure.

Mr. HEYBURN. Mr. President, I want to add, with the permission of the Senator from South Carolina, a little information to that which I gave last night. I have since inquired further. The men who started upon the enterprise of enlarging this production of tea in South Carolina during the time the duty was on, only suspended it because of the taking off of the duty. They stand ready—and they are people of great responsibility—to pick up the enterprise, which represents an investment already made of between $75,000 and $100,000. Not only do they stand ready, but there are a good many people, to whose attention they have called this matter, who stand ready to take hold of the tea industry in South Carolina and entirely through that belt—for they have examined it and are capable of knowing—just as soon as there is the protection they need against China and the filthy article of tea that comes to this country, against which they do not desire to compete. The leaves of tea that you will find in the cans from South Carolina are so clean, distinct, and individual as compared with the musty, broken, crushed leaves of tea from China, even of the best brands, that even to the uninitiated there is no difficulty whatever in determining the superior value of that tea. I propose, so far as I am concerned, to vote for a duty on tea.

Mr. BRANDEGEE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Connecticut?

Mr. TILLMAN. I do.

Mr. BRANDEGEE. I want to ask the Senator to what extent the present tea production in this country is unprofitable?

Mr. TILLMAN. Mr. President, the only producer of tea in a commercial way is this one man, Doctor Shepard, and it is not unprofitable to him because of the particular conditions under which he is growing it. It has become noised abroad, as I stated, that there is a very superior article of domestic tea, a small quantity of it down there, which people buy direct from Doctor Shepard or from one or two of his agents in the large cities.

I do not know how many places he has where he deposits this tea to be sold, but I dare say he gets 50 cents a pound for every pound of tea he grows. Therefore it is profitable to Doctor Shepard; but I am told that the actual cost of preparing the land, getting the seed, growing the plants, putting them out, and waiting for them to mature so that they will yield a crop—counting all that as investment, then adding the interest on it, the labor, the picking, the curing, and everything, he puts the cost at 21 cents. You can buy millions of pounds of tea not so good, but which will answer, for 15 cents. Therefore he is out of business, whereas, if you give him 10 cents protection, he would have that additional benefit from the tariff and could compete, and ultimately others would enter the business because they would see a good investment in it.

Mr. BRANDEGEE. I wanted to ascertain whether Doctor Shepard, or his company, or whatever it is——

Mr. TILLMAN. It is no company, it is an individual man. He is an enthusiast, one of those men who has spent his own money right along, who has traveled all over the East, who has studied the tea question, invented machines of his own contrivance, and substituted machinery for hand labor. I have been to his establishment, and know what I am talking about.

Mr. BRANDEGEE. As it stands, and as he conducts his business now, I want to know whether Doctor Shepard is making a profit or losing money on account of tea?

Mr. TILLMAN. I do not think he is losing money, but he is simply acting as a pioneer to demonstrate the feasibility and possibility and profit, under certain conditions, of the tea industry. When you consider that, beginning in North Carolina and running clear around through to the Texas border, or even beyond, there is a belt of country where, on account of climatic conditions and rainfall, the tea plant grows without the slightest trouble, you can see the vast possibilities of tea culture, if it is given a living show.

Mr. BRANDEGEE. Has the Senator from South Carolina any idea, or has he made any investigation with a view of ascertaining, if this duty of 10 cents a pound should be imposed, how long it would probably be before this country would be producing, say, 50 per cent of the tea used by the people of the United States?

Mr. TILLMAN. Well, Mr. President, I could not pretend even to guess, because I do not know how soon capital would take to this new branch of industry. This one thing is certain about tea: It is absolutely sure of a crop, because there are bound to grow leaves in the spring, and there will be other leaves according to the rainfall. Under the conditions at Summerville they pick their tea bushes about 20 times during a season. They have to wait until the new growth has begun, for they do not pick the fully matured leaves. They pick the little tender buds and the half-grown leaves, and cure them by certain processes.

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER (Mr. CARTER in the chair). Does the Senator from South Carolina yield to the Senator from Michigan?

Mr. TILLMAN. I do.

Mr. SMITH of Michigan. Mr. President, I have often heard this propaganda of free tea in the interest of the consumer, and it may be interesting to the Senate to know the source from which some of that agitation springs. If the Senator from South Carolina will permit me to read a line or two——

Mr. TILLMAN. I will.

Mr. SMITH of Michigan. I want the Senate to understand it. Whenever we agitate the question of a duty upon tea as an encouragement to domestic production, the exporters and their agents here raise a merry war. The Yokohama (Japan) Times said some time ago when the movement was on to repeal the tea duty that—

> The Central Japanese Tea Guild has applied to the authorities for the grant of an additional subsidy. The corporation spent such large sums of money in Washington in connection with the agitation in the United States for the abolition of taxation on tea in the United States that there occurred last year a deficit to the extent of many thousand yen in the finances of the guild. The agitation has to be continued this year, and there will be a great necessity for getting an ample supply of money for the purpose; hence the application.
>
> Japan and her dependency, the island of Formosa, exports over one-half the tea consumed in the United States and admittedly Japan interests will pay one-half of any duty imposed. It is not to be wondered that they have been active in securing so-called "consumers' protests" and in spending "large sums of money in Washington in connection with agitation for the abolition of taxation on tea."
>
> Public circulars issued by American export houses in Japan show that in 1903 (immediately after repeal of the 10-cent Spanish war revenue) the per picul price of Japan tea advanced 10 to 12 yen, equivalent to 5 to 6 cents gold, per pound.

Here is a copy of the recommendation that is made to the importer by the tea producers of the Orient:

> *To dealers:*
>
> Please have petitions [against tea tax] signed by as many voters as possible, especially those interested in politics, for we hardly think you are anxious to pay the Government a tax on every pound of tea you sell. Send in at once your membership fee of $25.

I say that this propaganda against the imposition of a duty on tea is a fraud. The consumers have never been obliged to pay this duty. The price of tea has never increased under an import duty or decreased when the duty was taken off. Tea is an article of necessity among our people; and it is perfectly idle for the American people, when they have such abundant fields for its production in the South, to be dependent upon a foreign country for a great article of necessity like this.

Mr. President, I know that it may be unpopular to vote for a duty on tea; that the exporters in Japan may make it appear that we are voting an additional burden upon the breakfast table of the American citizen; but I would rather take whatever responsibility comes with our vote and put a duty upon an article that may be easily produced here, enabling us to supply the American necessity, than to passively submit to the reasoning advocated in the Yokohama Times.

I am not, like the Senator from South Carolina, afraid of a bounty. I am perfectly willing to vote for a bounty. We once voted for a bounty on sugar; and I would cheerfully vote for a bounty on tea, if its production can not be otherwise encouraged by Congress. The flimsy excuse that we have no territory that can be successfully devoted to tea culture should not be urged in view of our achievements in South Carolina. For one, I declare myself in favor of ridding the American

people of the necessity of depending upon a foreign country for the supply of any article of necessity which our people need and can produce.

Mr. TILLMAN. Mr. President, the Senator from Michigan is very eloquent and forceful, as he always is; and, of course, he and his fellows will follow whatever course they see proper, either to vote for the tariff and afford relief to the Treasury by giving us the additional revenue, or, if that does not suit him, and if Senators on the other side want to vote a bounty on tea—as they did once on Louisiana sugar about twenty years ago, and very nearly captured that State—they are welcome to do so or to follow whatever course their judgment dictates. I do not know whether——

Mr. SMITH of Michigan. I have no hope of capturing South Carolina, Mr. President.

Mr. TILLMAN. I do not know what might happen. There is a very large contingent of our people down there who are engaged in cotton manufacturing who are squinting toward protection; there is another considerable element, some of whom are from Michigan, who have bought up our timber lands, and they have been very solicitous about the lumber duties; but so long as the Republican party maintains its attitude toward the negro, I think South Carolina will likely go Democratic. I do not bring that in here as a bone of contention to be discussed, but merely as a statement of a fact. Senators now have the facts before them; and, realizing just what the situation is, will vote as they see fit.

Mr. CARTER. Mr. President, intending, as I do, to support the amendment of the Senator from South Carolina [Mr. TILLMAN], I elect to consume a few moments in stating the reasons why I intend to cast that vote.

First, it is a genuine pleasure to welcome the Senator from South Carolina into ways which are right politically and right economically. He, too, gives additional evidence of the approach of that day when the great western country and the southern country will unite in supporting the protective tariff, which is destined to result in the erection of factories and centers of industrial activity all over the great region south of the Ohio and Potomac and west of the Mississippi.

Much has been done in this direction heretofore, but more will be done hereafter; and I am much gratified to observe that the Senators from the South have given evidence of their capacity to appreciate the beneficial effect of that policy, notwithstanding the ancient prejudice which has existed against it.

To my mind, as a protectionist, no amendment has been presented in the course of this tariff discussion more meritorious or desirable than the amendment presented by the Senator from South Carolina. Many years ago not an orange was produced in the United States; and grape fruit, now an article of commerce of very great value and a joy and luxury on every table where it can be delivered, was not known. The United States gave a bounty in lands within the State of Florida to encourage the growth of tropical fruits in that portion of the country. An enthusiast, who had been in the consular service in Central America, secured the passage of that law, or was instrumental in presenting the facts which induced its passage. He died without realizing the dreams which he had dreamed; and yet that old land grant, which gave a bounty in land to induce the planting of tropical fruits in the Gulf States, particularly in Florida, finally led to the immense output of tropical fruits now grown within the limits of the United States—in California, the Gulf States, and Florida in particular.

Not long ago different States of the Union gave a bounty on sugar beets. The States which provided that bounty were regarded at the time as engaged in a vicious practice, and many believed they were indulging in an Utopian dream; but in due time the bounty on sugar, and subsequently the duty which encouraged the growth of sugar beets, resulted in opening up the way for the production by the people of the United States in their own fields of the great volume of the sugar required for home consumption.

I remember not many years ago, when the McKinley bill was passed, it was believed that the tin-plate duty would never produce any beneficial result. At the time we levied a duty on tin plate we were producing little or none of that article; and I think we lost a general election upon the claim that we were putting a duty upon tin plate, without any prospect whatever of building up an American industry or benefiting any American citizen; but we have lived to see the time—and within a few years—when no one questions the wisdom of the Committee on Ways and Means and of the Congress in imposing that duty.

Mr. President, the Senator from South Carolina brings to us assurance, based upon his personal observation, that tea culture is unquestionably successfully conducted in South Carolina. The area upon which tea may be successfully grown in our Southern States has not been determined; but, unquestionably, if the culture of tea can be successfully conducted in South Carolina, it can be successfully conducted in the States to the west in the same latitude, and having the same soil and climate.

It is true that this 10 cents per pound duty on tea might be avoided by paying a bounty; but, Mr. President, there is no more justification for departing from Republican principles and paying a bounty in this case than there was in the case of tin plate. We avoided paying a bounty on the growth of sugar beets; and I am glad we resorted to the duty on the importations of sugar instead, because it resulted in benefit to the Treasury in way of revenue, and at the same time encouraged the citizen to expand the business.

I agree fully with the Senator from Michigan [Mr. SMITH] that this country ought to be self-sustaining, in so far as the necessaries of life are concerned, to the extent of its fair productive capacity. I would see the American people clothed with cotton and wool grown in the fields and on the backs of sheep owned by the American people, and pastured within the realm. I would see all the sugar our people need produced in the beet and cane fields of the United States. I would see all the flour and meat and every necessary of life of American production. There is more in that than sentiment, because in the contingency of war or strife or international difficulty that nation is in the strongest imaginable position which can, with the least possible inconvenience, sustain itself indefinitely within its own boundaries.

Our friends across the water, the great British Empire, the majestic power that has dominated this earth for a long time, is compelled to keep a channel fleet moving continuously about the islands, and ever in such a state of preparedness as to resist attack at any time. Why? Because if the food supplies were cut off from the islands for ninety days, every living thing upon the islands would be dead. Hence the necessity of *Dreadnoughts;* hence the necessity of masterful naval power; for, in the absence of this power of defense, humiliating conditions would follow in the event of aggressive warfare on the part of any other nation.

We are so situated geographically, cushioned by a great ocean on the west and another on the east, with friendly States north and south, with a variety of climate and soil, enabling us to produce everything that is necessary for the support and comfort of life in this country that, it seems to me, enlightened public policy requires that we should at all times direct our legislation in such course as will encourage the development of the commercial and industrial independence of the people of the United States. I would have this country so thoroughly capable of producing the necessaries and the comforts of life that, if the whole of our naval armament were swept from the sea and imports were kept away from our harbors and our ports, we could still live indefinitely, and live in comfort, notwithstanding our relations had been severed with all the markets of the outside world.

I would rather have that position of preparedness than to have a thousand battle ships floating the sea; because the one condition leads to perpetual peace and repose and the development of a high order of civilization, while the other leads to eternal expense, suspicion, strife, and groaning taxpayers, laboring under burdens that they ought not in this twentieth century to be compelled to bear.

Mr. President, believing that the people of South Carolina and of the other Southern States can develop this tea industry, having climate and soil suitable, as has been demonstrated by experience, the question is why not extend the strong arm of the Government out to them that they may have a fair market opportunity for that which they produce?

I agree with the Senator from South Carolina that the price of tea will not be raised to the consumer one farthing in extent, because a like tax did not raise the price to the consumer heretofore. That which has been, presumably will be true in the future. But it would naturally be argued, How can it benefit the South Carolina tea raiser if it does not increase the price of tea? It would, perchance, increase the price charged by the wholesaler and importer, but the distributing agencies have attached unconscionable additions that can not in decency be increased. Mr. President, the price of tea has run so high and the quality of tea has gone so low in this country that we consume less tea per capita than any people in the world, I believe. Our consumption amounts to about 1 pound per capita, as against about 6 pounds per capita in England. In England they levy a duty of from 11 to 12 cents a pound on tea, and the people buy the tea cheaper in the retail markets than they buy it here. The effect of the duty would, in my humble judgment, operate to exclude all the refuse trash of the tea markets of the world, which is shipped in here and called "tea." It is a

fact, often asserted and, I believe, pretty generally conceded, that this country is a dumping ground for all the discarded offal of the tea markets of Christendom. There is no duty——

Mr. TILLMAN. And heathendom.

Mr. CARTER. Of both heathendom and Christendom. We will have to include heathendom. The offscourings of the market, the low-grade trash, the partially spoiled crop, can not afford to pay its way into the English market, where it has to pay a duty of 11 or 12 cents a pound.

Mr. SMITH of Michigan. If the Senator will permit me, I will state that in the Russian market tea pays a duty of from 16 to 44 cents; in Austria and Hungary, 19½ cents; in Denmark, 8 cents; in Germany, 11 cents; in Italy, 22 cents; in Norway, 24 cents; in Spain, 13 cents; and in France, from 18 to 35 cents.

Mr. CARTER. I am obliged to the Senator for supplying the figures with reference to the duty imposed by the countries he has named. There being no relation between the rate and the market price of the tea, the duty being in each case specific, and the same amount upon a pound of high-grade tea as upon a pound of low-grade tea, it naturally follows that where the duty is the highest only the highest grade of tea is imported. That is so because you can get a high grade of tea in just as cheaply as you can a low grade; and the high grade when brought into the market will sell for more than the low grade.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from South Carolina?

Mr. CARTER. I do.

Mr. TILLMAN. Right along that line, I want to give the Senator some facts which were brought out last night in reference to relative prices. The identical tea which Sir Thomas Lipton sells in England at 42 cents is retailed to the American purchaser at 80 cents by Sir Thomas Lipton's stores. One grade of tea that is sold for 60 cents in the United States is sold in England for 26 cents. Another grade of our 60-cent tea is sold in England for 32½ cents; and a third grade of our 60-cent tea is sold in England for 40 cents. The highest priced tea sold in London brings 42 cents; and the very same grade sells here for from 80 cents to a dollar.

Mr. CARTER. Mr. President, I think it is clear from the history of the tea trade, the history of our tea duties, and the testimony of those best able to understand the facts from experience, that this country pays more for tea than any other tea-using country; and, moreover, that this country gets the poorest tea shipped into any market in the world. If it is possible for us not only to improve the quality of tea in the market, but likewise to encourage the production of tea at home, and that without the addition of a farthing to the cost to the consumer I think a long-continued debate on the question should not be considered necessary. Our friends on the other side of the Chamber may support this as a revenue tariff, or a tariff for revenue only. On this side I know that as an industry, the success of which in the United States has been demonstrated on a small scale, we, as protectionists, are called upon to discriminate in its favor in order to give the American market to the American tea grower, just as we gave the American market to the manufacturers of tin plate in the United States.

Mr. DILLINGHAM. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Vermont?

Mr. CARTER. I do.

Mr. DILLINGHAM. Does the Senator know what revenue this tax of 10 cents a pound would produce?

Mr. CARTER. My information is, though I will not make the statement positively, that it would produce about $9,000,000.

Mr. SMITH of Michigan. About ten million.

Mr. CARTER. From nine to ten million dollars annually.

Mr. TILLMAN. Will the Senator repeat his question? I did not hear it.

Mr. DILLINGHAM. I was asking about what revenue could be expected from this tea duty.

Mr. TILLMAN. From nine to ten million dollars. We now import 90,000,000 pounds a year, and of course that would give us a revenue of $9,000,000. If we should increase the imports by reason of the better quality, of course the revenue would increase, too.

Mr. DILLINGHAM. I understood the Senator to be advocating the theory that this duty is justifiable on a revenue basis as well as on a protective basis, and I was wondering whether the same argument would not apply to a tax of 4 cents on coffee, and what the revenue would be from that source.

Mr. CARTER. As far as the revenue from coffee is concerned, I should say that coffee stands in the same class as tea, but we do not produce coffee in this country.

Mr. DILLINGHAM. No; I was only thinking of it from the standpoint of a revenue tariff.

Mr. CARTER. From the revenue point of view, undoubtedly, coffee would be one of the prime articles to consider.

Mr. DU PONT. Do we not produce coffee in Porto Rico and Hawaii, and even a little in the Philippine Islands?

Mr. CARTER. I understand that we produce some coffee in Hawaii and some in Porto Rico, but I think it is produced under labor conditions that are not dissimilar from those in other coffee-producing countries. I believe this mainland is the great theater in which the American standard of labor is to operate, and that whatsoever we can successfully grow in the States under our wage standard ought to be the subject of very keen solicitude on the part of Congress. I can see no argument to be invoked in favor of a duty on any tropical fruit, in favor of the support of any infant manufacturing industry, or in favor of a duty on sugar in the interest of the beet-sugar grower that can not, according to the admitted facts in the case, be applied to the application of the Senator from South Carolina, as represented in his pending amendment. I think we should support the amendment, and support it without any question.

Mr. HEYBURN. Mr. President, I shall detain the Senate but a minute. But inasmuch as the subject has widened somewhat in the scope of its consideration, it will be well to have in the RECORD full information regarding it.

I have turned to the official figures in regard to the importation of tea from 1898 to 1902, which are a necessary part of the consideration of this question, because of the inquiries that have been made as to price and consumption. In 1897 we imported 113,347,175 pounds of tea. The average import price was 13.1 cents per pound. The consumption per capita was 1.58 pounds. The next year—the year of the Spanish war and the year of the imposition of the duty—we imported 71,957,715 pounds. The imports fell off for various reasons—among others, doubtless, the duty—to the extent of about 41,000,000 pounds. The price, however, remained substantially the same. In 1898 the price was 13.9 cents; in 1899 it was 13.1 cents; in 1900 it was 12.4 cents; in 1901 it was 12.3 cents; and in 1902, the year that the duty was taken off, the average import price was 12.4 cents. In 1903 it was 14.4 cents; in 1904 it was 16.1 cents; in 1905 it was 15.8 cents; in 1906 it was 15.6 cents; in 1907 it was 16.1 cents. It increased in price after the duty went off. The price was lessened during the time the duty was on. The only effect of the duty seems to have been that the imports decreased. It would not be fair to take the imports of 1897, because only the year before the imports had been 93,998,372 pounds.

So we may say that the average decrease of imports because of the duty was 20,000,000 pounds. It remained about at that rate during the time the duty was on tea. The price to the consumer was less. The amount consumed was substantially the same. There were two years—the years 1898 and 1899—when the amount consumed per capita fell off somewhat, although not very materially. Those are the official figures.

Before I take my seat I desire to say that my purpose in supporting the duty proposed upon tea is, perhaps more than anything else, because of the new field of enterprise that it opens for the production of a new commodity. We have all seen in our lives a good many commodities come into use that have at first been trifling in value or in extent, but that have grown to be of overwhelming importance. Take the production of alfalfa, for instance—the grass that to-day is more generally used than any other; and yet it used to be raised only in garden plots as an experiment. And so it is with other great products.

I want to stimulate the curiosity of the people, so that they will exploit the possibilities of this question. If we can develop the fact that we can raise tea as well in this country as in others, we shall have accomplished a great work. That is aside from the political proposition of affording protection and at the same time raising revenue.

I shall vote for the duty on tea.

Mr. McLAURIN. Mr. President, I have but a very few words to say. I rise principally to ask unanimous consent to put in the RECORD, without reading it, a letter I have before me.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

The letter referred to is as follows:

WASHINGTON, D. C., *June 10, 1909.*

To the honorable members of the Finance Committee of the United States Senate:

A committee representing all branches of the tea trade, namely, importing, jobbing, and retail, from the principal centers of the United States. Meeting held at the New Willard Hotel, Washington, D. C., June 10, 1909.

We desire to present an urgent and emphatic protest against the imposition of an import duty on tea for the following reasons:

First. A duty on tea would most seriously injure the trade.

(a) Because of the curtailment of consumption, which can be easily proven by statistics during the years 1898 to 1902, during the period of the Spanish war tax, when imports decreased, averaging 25 per cent.

(b) The experience of the country during the Spanish war tax clearly proves the tax forced consumption onto lowest grades of tea, with a corresponding decrease in the imports of higher grades, as is shown by detailed statement of imports of Japan tea during this period, when the choicest grades declined 75 per cent and the choice 50 per cent. This fact also applies to all other kinds of teas.

Second. We firmly believe that a duty for revenue should not be levied upon an article of food, especially when that article is one of the necessities in the daily food supply of the working classes of our country.

Third. We also emphatically declare, without fear of successful contradiction, that a duty on tea would most certainly increase the cost to the consumer, either through higher prices for the same quality or the purchase of an inferior article.

Fourth. Regarding the absurd proposition to tax tea as a protection to the infant industry of tea growth in the United States, will say that tea is, however, one of the industries that can only be a success where, in addition to climatic advantages, an unlimited amount of cheap labor can be had. These conditions can never exist in America. This is proved, in that after twenty to twenty-five years of experimenting under government patronage South Carolina has only been able to produce 15,000 pounds of tea annually, a trifle over one one-hundredth of 1 per cent, at an abnormally high cost.

Fifth. We also enter our protest against the truthfulness of the statement made that the average retail price of tea is 60 cents per pound, on a cost basis of 16 cents, for after a careful investigation and a thorough knowledge of the facts, being in close touch with the retail trade of the country, we maintain that the average retail price of tea to the consumer is from 30 to 40 cents, and, in addition, the average net import cost of Japan tea, which includes one-third of the total imports of tea to the United States, was during the past season 21 to 22 cents.

In conclusion, we submit to your honorable committee that, apart from the fact that the cost would be materially increased to the consumer, 98 per cent of all those engaged in the handling of tea in the United States are emphatically opposed to the imposition of any duty whatever.

Any other information or figures you may desire will be furnished by any one of this committee.

Mr. Samuel Young (chairman), of Young, Mahood & Co., Pittsburg, Pa.; Mr. F. Hellyer, of Hellyer & Co., Chicago, Ill.; Mr. J. C. Whitney, of J. C. Whitney & Co., Chicago, Ill.; Mr. H. G. Woodworth, of Robinson, Woodworth & Co., Boston, Mass.; Mr. J. B. Brown, of John B. Brown & Co.; Mr. Robert Hecht, of Harrison & Crossfield, New York, N. Y.; Mr. Russell Bleecker, of Formosa Mercantile Company, New York, N. Y.; Mr. Herbert Heroy, of R. R. Heroy & Co., Trenton, N. J.; Mr. E. A. Nathan, of George C. Cholwell & Co., New York, N. Y.; Mr. A. F. Tripp, of Bennett, Sloan & Co., New York, N. Y.

Mr. McLAURIN. Mr. President, some doctrines that are strange to me are advanced by those who have advocated this duty. The Senator from Michigan [Mr. SMITH] and the Senator from Montana [Mr. CARTER] have both spoken of tea as an article of necessary consumption. If that necessary consumption reaches to the great mass of the people of the country, including those who are less able to pay the expenses of the Government than those who are more able, that would be, with me, a sufficient reason for opposing the duty. But that which to me is a strange doctrine is that a protective tariff which is intended to protect the producer is not availed of by the man for whom it is intended and for whose protection it is enacted, but is only availed of by the retailer, whom it never was intended to benefit, and who, according to the argument of the Senator from Montana, is the extortioner.

I deny that the price of this article is extortionately raised by the retailer. I deny that the prices of articles of consumption that are retailed in this country are raised by the retailer to an extortionate extent. How can it be that a duty benefits the manufacturer if it does not allow him to raise the price of his article by the amount of the duty levied? How does it benefit him if he does not add the amount of the duty to the price of his goods? The retailer is not intended to be benefited by a protective tariff; that is, what is called a "protective tariff," but what ought to be called an "extorsive tariff." It is not made in his behalf. It is not intended to be made in his behalf. It is not intended to benefit or advantage him; yet he is the man who is made the scapegoat for the manufacturer.

Mr. HEYBURN. Mr. President, will the Senator yield to me for a moment?

Mr. McLAURIN. I will.

Mr. HEYBURN. I suggest to the Senator that the retailer would not be able to acquire the commodity at all, at any price, unless it were produced, and the wholesaler would not be able to acquire American tea to sell to the retailer. The people would be deprived of it. Both the wholesaler and the retailer would be deprived of it, and would be compelled to seek tea somewhere else in the world. There would be no producer in this country, and consequently there would be no labor, no investment. Is it not worth something to have all those things in this country?

Mr. McLAURIN. The retailer can get it from the importer.

Mr. HEYBURN. He can not get South Carolina tea; he can not get American tea.

Mr. McLAURIN. No; because there is not enough South Carolina tea to go around. I believe South Carolina produces only about 15,000 pounds of tea annually.

Mr. SMITH of Michigan. I would suggest to the Senator from Mississippi that there has been enough of it to go around with the Senator from Idaho. He has been using it for six years.

Mr. McLAURIN. I admit that it would take a good deal to go around with the Senator from Idaho.

Mr. HEYBURN. Will the Senator permit me for just a moment, and then I will be through? While I dislike to be personal in these matters, I will state that this morning I had a request from some of my friends on the Pacific coast to send them some of this South Carolina tea. They had had a taste of it and wanted more, and I gave the necessary instructions this morning to have that tea sent to the Pacific coast.

Mr. McLAURIN. I am glad the Senator has done that; and if he will send a great many of the products of the South to his constituents I have no doubt they will be very much pleased with them.

There is another thing that is a strange doctrine to me. If the duty does not raise the price of the article, how is it going to benefit the producer of the tea? It is contended here that it does not raise the price of the article to the consumer. If not, where is the producer of the tea to be benefited by a protective tariff?

I am opposed to all this doctrine of protection, anywhere, at any time, and under any circumstances. I believe the revenues of the country ought to be raised without reference to the doctrine of protection, but that they ought to be raised by a tax levied for the purpose of raising sufficient revenue to defray the expenses of the Government when it is economically administered—I mean, administered according to Democratic doctrines.

Mr. GALLINGER and Mr. CARTER addressed the Chair.

The VICE-PRESIDENT. Does the Senator from Mississippi yield?

Mr. McLAURIN. With pleasure. I will yield first to the Senator from New Hampshire, who first rose.

Mr. GALLINGER. I will ask if a tariff does not benefit the producer if it creates for him a market that did not previously exist, and if it excludes from the American market the foreign product and enlarges the domestic market, even though the price may not be increased? Is it not a very great benefit to the American producer?

Mr. McLAURIN. I do not see how it could be. There is sufficient market for all the tea that is raised in this country; and if the tariff does not increase the price, I can not see that the producer would be benefited at all. I dare say there has been no failure on the part of the producer of tea in South Carolina to find a market for it.

Now I will yield to the Senator from Montana.

Mr. CARTER. I desire to call the attention of the Senator to the method of disposing of imported tea. The Senator suggests that he inferred from what I said that the retailers charge an unconscionable price for the tea.

Mr. McLAURIN. I believe it has been the rule to charge the retailer of all articles with all offenses, and to that I enter a protest.

Mr. CARTER. There is no such charge in this case except as to the people who are engaged in this tea business. If the Senator will investigate the subject, he will find that the tea monopoly is one of the most thoroughly organized and effective, in so far as keeping up prices is concerned, that we have in the United States. The Great Atlantic and Pacific Tea Company, the Grand Union Tea Company, and James Butler alone have 800 distributing tea stores under central management.

The remainder of the tea distribution throughout this country is by Lipton & Co. and some other English firms. So the retail grocer, to whom a few caddies of tea are shipped now and then for distribution, is not the offender in this case. It is the combination of tea importers who have become tea distributors at all the jobbing centers of the country who fix the price, and without regard to the cost to them in the country where the tea is produced and without any regard whatever to the quality of the tea.

Mr. McLAURIN. Mr. President, I have always understood it to be the correct enunciation of a proposition that water will seek its level, and if you have access to the tea of the world for importation it is calculated to make competition. The doctrine

of the protectionist has always been to cut off, or at least to restrict, competition. If tea is too high because of the fact that importers have combined for the purpose of running up the price, the way to combat that is to leave unrestricted the importation of tea, and competition is calculated to reduce the price of it, as it is the price of any other article.

Besides that, the sharper the competition the better the article sold and the cheaper the price. On the contrary, the advocates of this protective duty, especially in this instance, and I believe in many other instances, contend that the less the competition the better the article and the cheaper the price. It does not need anything more than the statement of the proposition to refute it. Its statement is its best refutation. How long would it take, if it were possible, out of the 15,000-pound tea industry in this country now, to develop a large producing industry, until there would be a tea trust in this country, just as there is a shoe trust and a steel trust and other trusts that afflict the country? I do not believe in the doctrine of protection——

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from South Carolina?

Mr. McLAURIN. I do.

Mr. TILLMAN. Does the Senator think it is possible to have a cotton trust in this country?

Mr. McLAURIN. No; I do not.

Mr. TILLMAN. Because it is produced upon each farm, and the tea will have to be produced in small quantities on each farm, and therefore the possibility of a trust in tea is absurd.

Mr. McLAURIN. It may be absurd to the Senator from South Carolina. A great many things are absurd to that Senator. I think probably everything that does not strike into his mind at first blush is absurd to that Senator. But I do not regard it as absurd, Mr. President, and I do not think that in his time or in my time there will be any production of tea such as there is of cotton.

I did not intend to say this much, and had I not been interrupted I would not have said it. I merely intended when I rose to ask for the insertion of the letter which has been put into the RECORD.

I shall not vote for this amendment; but I am going to move now an amendment to the amendment to insert the word "five" where the word "ten" is.

Mr. BRADLEY. Mr. President, it seems to me there should be no difficulty in any Senator arriving at a vote on the amendment of the Senator from South Carolina. As I understand the title of the bill now before the Senate, it is "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes." This amendment, in the first place, is a revenue producer and in full line with the title of the bill.

In the second place it is a protection to an American industry, and an infant industry at that. It seems to me that our Democratic brethren should have no hesitation in arriving at their conclusion, if they see fit, with a view to producing revenue, and it seems to me my Republican brethren should have no difficulty in arriving at a conclusion on the ground that we are protecting an American industry.

So far as I am concerned, I shall vote for this amendment upon the theory of protection. The protection of industries in the West, in the East, and all through this country is Republican doctrine, and I want to see this doctrine extended to the people of the South. I want to see the time come when we will not be dependent upon foreign nations for the tea we buy, or rather the filth we buy, at their own prices, and I hope that the Republicans in the Senate will see fit, one and all, to cast their votes in favor of this amendment; and if our Democratic brethren want to call it something else, let them call it something else, but let us pass this amendment substantially with unanimity.

I want to see it passed, because I believe it is right, and it would be a great pleasure to me to cast my vote in favor of a measure which is suggested by my distinguished friend the Senator from the State of South Carolina.

Mr. OWEN. Mr. President, I am utterly opposed to this amendment. I am opposed to it for the same reason that I would be opposed to raising the revenues of the United States by a poll tax. It is a tax upon the common people almost as harsh in its operation as would be a poll tax.

I have in my mind a letter by Mr. W. J. Buttfield, of New York, of June 21, 1909, submitting an argument in favor of this proposition, in which he states as a reason that this tax will come out of the retailer and not out of the consumer, on the ground that these teas, which cost only from 15 to 18 cents, are retailed at from 50 to 75 cents a pound.

Mr. BRADLEY. Will the Senator from Oklahoma suffer an interruption?

Mr. OWEN. I yield.

Mr. BRADLEY. I should like to know how the Senator can reconcile his position on this matter with his vote on the question of oil.

Mr. OWEN. The Senator's interruption I will answer now, although its obvious purpose is to interrupt and confuse the argument which I was making, and therefore is not a proper or a courteous interruption. The Senate has too often seen this character of interruption, and against it I enter my emphatic protest. A Senator is almost obliged, as a matter of courtesy, to yield to an interruption, but when the interruption is for the purpose of distracting his argument, leading it to one side and making abortive the attempt of the speaker to make a point, I regard the interruption as entirely improper and unjustified.

Mr. BRADLEY. Mr. President——

Mr. OWEN. I yield again to the Senator from Kentucky.

Mr. BRADLEY. May I say a word?

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Kentucky?

Mr. OWEN. With pleasure.

Mr. BRADLEY. I want to say that it was far from my purpose to be discourteous to the Senator from Oklahoma. I simply could not understand how that matter was. I did not mean any harm by it; but I supposed the reason of it is that Oklahoma is interested in oil and South Carolina is interested in tea.

Mr. OWEN. I understand perfectly well the spirit of the interruption, and while I am willing to accord to the Senator a genial good purpose in that interruption, his suggested explanation of my position I will answer now. I stood for a tax on oil because I believed the importation from Mexico was threatening this country on a vast scale. I believed it would be used by the most gigantic trust in this country to break down the independent producer and the independent refiner. I voted for a tax on oil because if the import on a large scale of Mexican oil did become an agency of oppression of the independent competitor in the hands of a giant monopoly, such import would at least be abated to the extent of being compelled to pay a revenue tax to the United States Treasury.

That is a very different proposition from this case, proposing to tax the people of the United States $9,000,000, on the theory of the proponents, for the purpose of protecting an infant industry, which, by the very figures of its advocates, giving the retail price of 70 cents a pound for tea imported at the price of 18 cents a pound, shows that there is already a protection of over 50 cents a pound between the import price and the retail price.

What more protection is needed than the protection now afforded by the monopolistic prices of this great tea combination, which is a well-recognized trust? Since that margin is so very large for the tea producer, I think he will suffer no harm.

What I believe to be the policy of this Government is to raise the revenue from those who can best afford it, and there are many sources of income from those who can better afford it than the man who drinks tea. I should be glad ordinarily to support my colleague. I have almost always found myself in accord with him; and in this case, where his interest in a local industry has led him to favor this matter, I shall not criticise him. He thinks it will serve the purpose of his State and of the country and will raise a large volume of revenue. I shall not criticise him, but I do propose to put on the record my emphatic protest against raising the revenues by this character of tax. I am opposed to it for the same reason that I would oppose a tax upon coffee—because it is so universally used. I am opposed to it because I do not believe it is needed; and if I did think it was needed, I should still oppose it, because I think it would be better to let the people who make tea at 10 cents a day continue at that business rather than to have the people of this country engage in competition with low-priced imported tea and low-priced labor of that character, when they could be better employed in more profitable labor.

I will submit this letter of Mr. A. J. Buttfield as a part of my remarks, entering my emphatic dissent from the argument which it contains, and using his facts as he represents them to be as a sufficient justification of my objection.

The letter referred to is as follows:

TEA.

Summary of facts submitted to the Senate of the United States relative to the proposed duty on tea.

There is but little relation between import costs and retail prices of tea in the United States.

Sworn and other undisputed evidence shows that:

Sold by—	United States retail price per pound.	United States import value per pound.
Five different teas, Great Atlantic and Pacific Tea Co.	[a] $0.72	$0.16
Nine different teas, Grand Union Tea Co.	.71½	.16
Imperial tea, Grand Union Tea Co.	1.00	.17
Gunpowder tea, Grand Union Tea Co.	.60	.16
English breakfast tea, Grand Union Tea Co.	.50	.11
Do.	.40	.11
White Rose brand, Seaman Brothers, of New York	.60	.12
Salada brand, Salada Tea Co., of Canada	.60	[b] .15
Lipton's best grade, Lipton & Co., of England	.80	[c] .18
Lipton's lowest grade, Lipton & Co., of England	.60	[d] .17
Tetley & Co. brand, Tetley & Co., of England	.80	.18½
All tea imported by the United States average about	.60	
All tea imported by England average about		.32½

[a] Average.
[b] Retailed in Canada at 40 cents.
[c] Retailed in England after paying 10 cents tax at 42 cents.
[d] Retailed in England after paying 10 cents tax at 34 cents.

NOTE.—The first two-named companies are the largest retailers of bulk tea in the United States and the other four are the largest sellers of packet teas.

Retail prices in the United States are not affected by tariff.

The Grand Union Tea Company (the largest retailers of tea in the United States) retailed their teas while duty was in force at from 40 cents to 75 cents per pound; after duty was removed at from 40 cents to $1 per pound.

This company sells no teas under 40 cents.

Seeman Brothers, vice-presidents of the association formed to combat a duty on tea, advertise that price and quality of their teas will remain unchanged "tariff or no tariff." This firm stated to the Ways and Means Committee this year that it is the largest American distributer of "packet" teas.

One-half of a duty on tea was, and will be, paid by the foreign producer. Of the remaining 50 per cent a considerable amount will be paid by foreigners retailing tea in this country without contributing to its support, and the balance will be deducted from the retailers' excessive profits.

This was the testimony before Congress in 1897, again in 1902, and is also confirmed by the Hon. SERENO E. PAYNE, in his statement before the House, April 7, 1909. The price of "medium" Japan teas advanced from 19/21 yen in 1901 to 27/29 yen in 1903, and to 29/31 yen in 1908. The average cost of all teas imported into the United States in 1902 was 12.4 cents; in 1904, 16.1 cents; and in 1908, 17.1 cents.

R. Fukao, agent of the Osaha Shosen Kaisha, stated in the San Francisco News last month that if an 8-cent duty was levied on tea, Japan would be compelled to pay $2,000,000 of same. This is exactly one-half of such a duty on the 50,000,000 pounds annually exported to the United States from Japan and Formosa.

Consular Report No. 3491, dated May 26, 1909, states that one Japan tea district alone was petitioning their Government for a subsidy of $1,000,000, due to the fear of a United States tariff on tea.

A duty on tea will not be paid by the ultimate consumer. It will encourage consumption by discouraging importation of the lowest grades, which, while genuine, are without any drinking merit. It will protect, in measure, the tea trade of this country from foreign distributive competition. It will compel the foreign producers and the foreign firms now retailing their teas throughout this country to the detriment of the American merchant to contribute $5,000,000 to $7,000,000 per annum toward the revenue of the United States, thus relieving the American taxpayer to a like amount. Is there in the entire schedule a better source of revenue?

Respectfully submitted.

W. J. BUTTFIELD.

NEW YORK, *June 21, 1909.*

Mr. BAILEY obtained the floor.

Mr. McLAURIN. I merely want to say that inasmuch as I am opposed to any tax on tea and will vote against any tax on tea, I withdraw the amendment I offered.

The VICE-PRESIDENT. The Senator from Mississippi withdraws the amendment to the amendment.

Mr. BAILEY. Mr. President, I would rejoice very much if all men could be emancipated from all taxes. But as that is impossible, I have usually followed the plan of taxing those who are best able to bear it with the least of inconvenience. I have also in the levy of tariff duties followed the plan of laying those duties on such articles, where that was possible, that would pour into the Public Treasury as nearly as could be every dollar which was added to the price of a given commodity.

I was taught as a Democrat that the ideal revenue-producing article was one which was imported into this country from other countries and not produced at all in this country. Obviously, sir, there is no possibility of a protection resulting from the levy of a duty on that kind of an article, and every farthing which that duty takes out of the pockets of the people is put into the Treasury of the Government.

It was this view of the matter that moved the early Democrats. Possibly I offend at this day by referring so often to the early Democrats, but I must be excused for thinking they were the better Democrats—and I mean that as no reflection—than the Democrats of this day. They had less of local matter to disturb them and to divert them, and though there was enough there was still less of local influences operating upon their minds. It was this view that led the early Democrats to favor a tax on both tea and coffee. It was an ideal and purely revenue tax. But in the course of time coffee became such an article of universal use that the Democrats first remitted the tax on it when produced in certain countries and imported into this country in the vessels of the United States or in the vessels, I believe, of Holland. Thus they began their concession to that policy which would exempt an article of common and daily, not to say an article of necessary, use.

We followed that recently. I follow it resolutely myself. I would not vote for a tax on coffee. If coffee were on the dutiable list I would hesitate to remove it until I could first also remove some of those articles which are even of more common, more universal, and more necessary use than coffee itself.

But I will never consent except where the revenues of the country imperatively require it to transfer any article of common and necessary use from the free list to the dutiable list.

But, sir, as I understand it, though I may not know much about the consumption of tea, it lacks very much of being an article of common, and much less of necessary, use. The statistics before us show that we consume less than 1 pound per capita per annum in the United States. That is an abundant proof that it is used by a very small per cent of our people, and it is used by those who can well afford to pay this duty to the Government.

I may be mistaken in my facts; if so, I will be mistaken in my vote, but I undertake to say that if we go back to the old State of Mississippi not one out of every 20 constituents of the Senator from Mississippi indulges in the use of tea. I feel warranted in saying that of the people of my own State not one in 30 use it. I was never in a farmhouse in my life, as I now recall, where they had tea. I have been on some plantations where they had a mansion and where they lived on the very fat of the land where they had tea, but the people who owned that plantation and lived in that mansion were as well able to pay a tax on tea as any other people of my acquaintance. But, going back to the people who live on the modest farms, I do not recall that I ever sat at one of their tables in my life and found tea there. Coffee is always there; tea is never there.

I do not think a Democrat can put these two articles on the same level. They do not fall within the same rule. In the first place, they are not equally an article of necessary and common use. In the next place, they are not used equally by the people who can ill afford to pay any tax at all. My own experience is supplemented, confirmed, and reenforced by statistics here that show the use of only 1 pound or less than 1 pound per capita per annum. That means that the people who use it are a small per cent of our people, because everybody understands perfectly well that, if they use it at all, they will use more than 1 pound per capita per annum; and if they did not, then that is only 10 cents, and raises $9,000,000 toward the support of our Government.

Mr. President, when I can find an article that will raise $9,000,000 of revenue to this Government, which is used by less than one man out of twenty, and that one man who uses it is well able to pay the tax, I think I am fortunate in selecting it. Not only so, but, according to the statement here, there are only 12,000 pounds of tea produced in the United States. If there were 12,000,000 pounds, it would make no difference with me, for I have no sympathy with the plan of building up an industry by taxing the people who must use the products of that industry.

I have absolutely no sympathy with that. I think if a man can not engage in an industry in this country without taxing other people to support it, he ought to close that one up and engage in one by which he can support both himself and family. But neither do I believe that any man ought to be permitted to continue in the business unless he can pay his fair share of taxes along with everybody else.

But admitting that the full duty of 10 per cent is added to the cost of every pound of tea grown or produced in the United States, that would mean $1,200 which the tea consumers pay to the tea producers as against $9,000,000 the tea consumers pay to the Government.

Now, sir, I challenge these Democrats who talk about being for revenue only, as I am, and who regret even incidental protection, as I do, to point out another article on that list that would put as little in the producer's pocket and as much revenue

into the Government Treasury as tea. It is not there. There is no one article in all the bill with a duty levied upon it that will put so small a per cent into the hands of the people who do not earn it of the full amount which they take from the pockets of the people who consume the article.

Of course, I do not pretend that I better understand the principles of my party or the principles of a tariff for revenue than my colleagues here; but I will never fail to vote for an import duty upon an article used by but a small per cent of our people, and that per cent well able to pay the tax. If anything other and further were needed to recommend it to me as a Democrat, I find it in the fact that, as against nine millions of public revenue, there is the inconsiderable tribute of only $1,200 to the people who produce it.

Mr. President, when I was younger I thought if a man could discover a new use of the soil, producing some new and valuable plant, he was a fortunate citizen, and he would have the value of his land increased; but in this day, just as soon as a man finds some new use to which he can put the land, he wants the Government to tax everybody else to encourage him in doing so. When I was younger I thought the most fortunate individual in the country was the man who struck oil. That was a synonym for great prosperity. A man who struck oil was a rich man; but now every time a man sinks an oil well and finds an abundant flow, he rushes to Congress with a prayer for a protective-tariff duty to be saved from the competition of some other country.

It is a singular view that everything in this country has to be protected from every other country in the world. As for oil, I wish they would discover it in every other country on the globe until it will be well-nigh as cheap as water, because it is almost as necessary in the economy and civilization of our land.

As for tea, I am not sure that it is a fortunate circumstance for the people that you can extend its cultivation. I am rather inclined to think that it is not a healthy beverage. Whether it is or not, I am willing to leave each man to settle that with his own appetite. But I do insist that the small percentage of the people who prefer the patrician's tea against the plebeian's coffee ought to be made to pay for that preference.

With this $10,000,000 do you know what I would do, Mr. President? I would keep piling this $10,000,000 up with any other $10,000,000 and adding it to that corporation tax, if they succeed, or that income tax, if we succeed; and then when we shall raise some more I would call on the Senator from Rhode Island to go back, when we reach the Senate from the Committee of the Whole, and reduce this enormous and unconscionable duty upon the necessaries of life.

I never, Mr. President, can get my consent to vote against a duty of 10 cents a pound on tea as long as the statute books levy a duty of 40 per cent on the common cotton cloths that the people wear.

Mr. STONE. Mr. President, I desire to offer an amendment to the amendment.

The VICE-PRESIDENT. The Secretary will report the amendment to the amendment.

The SECRETARY. At the end of the pending amendment strike out the period, insert a semicolon and the following:

But not including inferior tea, tea waste, tea siftings, or tea sweepings, imported under the provisions and for the purposes set forth in the act approved May 16, 1908.

Mr. STONE. Mr. President, the act approved March 2, 1897, was passed to provide against the importation of impure teas. During the existence of the tea tax, levied to raise war revenue, the impure teas, tea waste, and tea siftings were subject to the tax, and after its repeal they were brought within the provisions of the pure-tea act.

Last year, after a considerable debate and thorough understanding of the subject by the Senate, a bill was passed which had been reported unanimously from the Committee on Commerce with a recommendation that it pass, adding a proviso to the pure-tea law, which reads:

Provided, That nothing herein shall affect or prevent the importation into the United States, under such regulations as the Secretary of the Treasury may prescribe, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary of the Treasury, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed.

These inferior teas, sweepings, and waste are imported in large quantities into this country, not for domestic use, for they are wholly unfit for that, but they are imported solely for use in chemical manufactures.

The provision to which I have called attention was incorporated in the law last year permitting the importation of these tea wastes and siftings without bringing them under the provisions of the pure-tea law. Of course at that time there was no tax on tea; it was free; but if the amendment proposed by the Senator from South Carolina should be adopted, then the amendment I suggest ought to accompany it as a part of it, or else we will find these impure teas, waste, and siftings that are brought in solely for manufacturing purposes compelled to pay a duty.

Mr. TILLMAN. I am ready to accept the amendment offered by the Senator from Missouri, because I realize that there might be some hocus-pocus by which dirt and trash and other adulterations might get into the trade as tea, and I think we are getting too much of that anyhow.

The VICE-PRESIDENT. The Chair understands the Senator from South Carolina accepts the amendment to the amendment?

Mr. TILLMAN. I do.

The VICE-PRESIDENT. The Senator makes it a part of his amendment.

Mr. STONE. That is satisfactory.

Mr. DU PONT. Mr. President, the question has been so thoroughly discussed that I do not believe anything I could say would shed any more light on it, but I desire to say that I am always in favor of protecting as far as possible the American market for the American agriculturists, and on that principle I shall vote for the amendment of the Senator from South Carolina.

Mr. SHIVELY. Mr. President, by the express terms of the proposed section 2 of the pending bill, tea will become subject to a duty of at least 10 cents per pound on March 31, 1910, whatever may become of the pending amendment. That is one of the duties prescribed by the maximum rate provisions of this bill. It is a substantive part of what the statute will define as "the tariff of the United States." If the amendment be adopted as a part of section 1, then tea will become one of the articles to which the additional "25 per cent ad valorem" provided in the proposed section 2 would apply, and the real duty will be 10 cents per pound plus 25 per cent ad valorem. This is inevitable unless section 2 should be so amended as to except tea from its operation. But whether the "minimum tariff of the United States" should be finally put in force as to tea by executive proclamation, or whether what section 2 defines as "the tariff of the United States" should remain in force after March 31, 1910, the objection to the proposed amendment still remains.

Mr. President, tea is now an article of free commerce. I am not one of those who are swift to seek new subjects of taxation, and certainly not for the private purpose of so-called "protection." It is inconceivable to me that any tax can be in itself a good thing. All taxes are at best necessary evils. Whatever be their names, they fall within the category of burdens, and are justified only by the fiscal necessities of government.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Texas?

Mr. SHIVELY. Certainly.

Mr. BAILEY. I simply want to suggest, so that the Senator's statement standing that way may not hereafter be misconstrued, he does not intend to have it construed that he is opposed to an income tax, which is, of course, a new subject of taxation.

Mr. SHIVELY. Certainly not. I am not opposed to an income tax or any other equitable tax where the fiscal necessities of government require the revenue derivable from it. And permit me to add that I know of few propositions submitted to the Senate which, if adopted, are more likely to prevent a real income tax than that on which the Senate is about to vote.

But by all the arguments submitted from the other side of this Chamber, it is palpable that we are now asked to incorporate a new statutory industry. The exercise of the federal taxing power was not necessary to induce the production of wheat in the United States. It was not necessary to induce the production of corn, nor of cotton, nor of beef, nor of pork in this country. Whatever duties appear on these articles, and about all other duties in the agricultural schedule, are purely political duties, as such duties always have been. Our soil, climate, and other natural conditions were adapted to the production of these articles, and the genius and energy of our people did the rest. I do not say that no portion of our soil and climate is not adapted to the production of tea. If some portion is, then the exercise of the taxing power is not needed in behalf of the tea industry. If soil, climate, and other conditions are averse to the industry, then the proposed duty, in so far as it is designed to be protective, would only subsidize a new beneficiary of special privilege from the natural and legitimate profits of other industries.

It is contended that tea is a luxury. This may be the subject of an honest difference of opinion. There is no precise dividing line between necessaries and luxuries. That there is less tea

consumed than coffee is not a test. The higher price of the one and the greater hardship in procuring it are not tests. Those who would make it dutiable may regard and proclaim it a luxury. Certain it is that the great body of those who use it regard it as a necessary. The legislation that would increase its price might lend it the character of a luxury, but only as it would disable the citizen to buy and use it.

It is admitted in this debate that only a very slender territory in this country is at all measurably suitable to the production of tea. This territory is confined to within 30 miles of the ocean line, and a comparatively short distance along that line. The ocean dampness and other ocean influences seem necessary to making the crop. The very facts of the smallness of the territory and the few who could engage in the industry disclose how easily, by the assistance of a tariff, it could become the subject of monopoly.

I am not unmindful that in behalf of the proposed duty has been invoked the contention that obstructive customs taxation has been useful in naturalizing certain industries in this country. Among such industries named this morning, and the one most frequently recurred to in the course of the consideration of this bill, is tin plate. It has been repeatedly claimed that the tin-plate industry was established by and under the high duty prescribed in the McKinley Act of 1890. A little inquiry into the real history of that industry shows that it was not naturalized under that act, but under the lower duty of the Wilson-Gorman Act and the Dingley law.

The whole subject of tin-plate duty and tin-plate production was the topic of thorough investigation in the Fifty-second Congress. I took a modest part in that work. It was claimed that the industry was established and rapidly growing, and Treasury statistics, gathered by a special agent of the Treasury Department, were presented in proof. Then it developed that the increase in the importation of finished black plates corresponded almost to the pound with the returns to the Treasury Department of what was called "tin plate produced in the United States."

It was conclusively shown that the so-called "tin-plate industry" developed under the act of 1890 did not mean tin-plate production in the United States, but only a slender tinning attachment to an alien industry. In other words, the ore had been mined abroad, the ore had been smelted in Wales, the iron had been wrought into steel billets in Wales, the billets had been hot rolled into sheets in Wales, the sheets had been pickled in Wales, annealed in Wales, cold rolled in Wales, cut into commercial sizes ready for tinning and boxed in Wales, and then had been shipped to this country and run through imported molten tin in an imported Welsh tinning pot, generally by an imported Welshman, and certified to the Treasury Department as "tin plate produced in the United States."

The high duty on tin plate had been used to exclude this article and force higher priced granite ware on the American market as a substitute for tinware. The high duty on terne plate had been used to force expensive heavy gauge domestic galvanized sheet iron on the market as a substitute for terne plate. The duty on tin and terne plate placed in the act of 1890 was used to raise the prices of the products of old and well-established industries rather than establish or encourage new industries.

After my investigation of the subject in 1892, I never had a doubt of the ultimate naturalization of tin-plate production in the United States. It is a natural part of the iron and steel industry. If Wales had the iron and steel, so did the United States. Wales was compelled to import the necessary pig tin and olive oil; so could the United States. In 1892, in the House of Representatives, after showing the facts briefly stated to-day, I ventured to forecast the future of tin-plate production in this country in the following language:

> I do not contend, Mr. Chairman, that the real tin-plate industry can not be naturalized in the United States. In my judgment it can be, it ought to be, and eventually will be. We have here every raw material necessary in the production of tin plate that Wales has. The rolling mills of this country are now producing nearly a quarter of a million tons per year of the heavier-gauge sheet iron and steel. To roll the sheets to the thinner guage and finer quality, and coat them with tin, or tin and lead, solves the problem is so far as the mechanical process is concerned. But the tin-plate industry will not be naturalized in the United States by fiats of Congress. It will not be naturalized by men who depend on the caprices of politics or the expedients of legislation. It will not be done by men who assign only a part of their producing capital to producing tin plate and the rest to political campaigns. When it is naturalized it will be done by men of boldness, energy, skill, and self-reliance making an intelligent application of approved business principles and business methods to the natural advantages which this country presents.

The real tin-plate industry was naturalized in the United States in 1894, 1895, and succeeding years, and under a tariff reduced from the high rate of 1890. I do not for a moment contend that this lower rate established the industry. It was established by causes absolutely apart from and independent of the tariff. He who studies the statistics of the iron and steel market for the years 1894 and 1895 will discern the true influence that caused the beginning and rapid development of the industry. General depression of industry had come upon the country while the act of 1890 was on the statute books. In 1894 and 1895 the price of pig iron went as low as $17 per ton. The slackened demand for steel rails, structural steel, and other steel products put the wits of the bright men in the iron and steel industry at work to devise new means of carrying their steel billets forward into final consumable products. Tin and terne plate presented the prospect and they seized it. They put in the additional rolls and proceeded to take charge of an industry which had been theirs to command for many years before. It was the hot energy of competition for a market for their billets, not the sloth of monopoly, that gave them their triumph in a real tin-plate industry, however much that triumph may have afterwards been abused in capitalizing the Dingley tariff into enormous issues of watered stock.

Now, we have here presented a proposition to subject tea to this duty, and tin plate is invoked as an example to urge the Senate on. The example does not exemplify. The majority of reasons assigned in support of this duty present tea as a new candidate for subsidy from other forms of agricultural industry and other nonprotected and nonprotectable industries and occupations. I am unwilling to vote a new member into that confederacy of special privilege which seems so resistless in the formation of these schedules.

Mr. SMITH of Michigan. Mr. President, I intend to detain the Senate only for a moment. The answer to the Senator from Indiana [Mr. SHIVELY], that our tariff upon tin plate did not stimulate the domestic industry, can best be made by quoting the figures. In 1899, before we put on the tariff, we exported 205,000 pounds of tin plate; and in 1907, after the duty had been on for a few years, we exported 19,804,000 pounds of tin plate, thus demonstrating that we not only supplied our domestic demand, but that we had an excess of tin plate for exportation of over 19,000,000 pounds, which found its way back to Europe, with the stamp of the American laboring man upon it. That is a sufficient answer as to the effect of our duty upon tin plate.

I wish to put into the RECORD, so that I may not be misunderstood, the reasons why I would favor such a duty upon tea as would stimulate the domestic production. In the first place, the special agent of the United States Department of Agriculture says that—

> It has been abundantly established that, at least for certain sections of the United States, American-grown tea can hold its own against the imported article.
>
> A widespread American tea industry awaits the same advantages that are enjoyed by the sugar, tobacco, and other protected crops of this country, whether in the form of a bounty on the domestic article or a duty on foreign teas, such as is levied on tea in almost every civilized nation.

He further says that tea is a necessity to many people, and that it is wise to cultivate the domestic supply, in order that our people may never be embarrassed in their supply, as they were in the supply of coffee but a few years ago when insects destroyed the plant.

Mr. President, it costs 12 cents a pound to produce tea in Ceylon or in the East. The American consumer pays from 60 cents to a dollar a pound for it. Somebody gets that tremendous profit between the grower of tea and the consumer; and all must admit that millions of dollars of American money go out of our country every year to pay for tea.

As a consistent protectionist, having confidence in the ability of our country and the character of our soil to produce almost anything that the American people need, I propose by my vote to extend the beneficent effects of our policy to the domestic tea industry.

I said a little while ago that the propaganda that is now extant in our country against the duty upon tea is the result of a deliberate and carefully planned scheme among the exporters who control this market. I read a little while ago to the Senate one of the petitions that they are circulating in this country among the consumers, and I read from the Yokohama Times, a Japanese newspaper, a report that the Japanese Government had been called upon for large contributions in order that this propaganda against the tariff on tea might be conducted in the United States.

Tea is being produced in the United States. Fifteen thousand pounds of it will be produced in South Carolina this year. That is fifteen times as much as was produced in Ceylon in 1875, and Ceylon now exports 184,000,000 pounds of tea. I believe, with

the Department of Agriculture, that this is a fruitful field for American enterprise.

Further, South Carolina produces 600 pounds of tea per acre, while the people in the Far East produce but 350 pounds per acre, showing the fertility of our soil and the adaptation of the climate to the production of tea.

If the same pessimistic and doubtful attitude of the opponents of this proposition had been applied to the beet-sugar industry, there would not have been an acre of sugar beets now produced in America. If the same doubtful attitude had been assumed toward tin plate, we would not now be exporting millions of pounds of tin plates and giving to the American consumer that necessary article cheaper than he ever bought it before the duty was placed upon it under the McKinley law.

The Japanese people consider the American market so essential that they subsidize ships to handle tea exclusively between Japan and the United States.

As I said a moment ago, we are paying 60 cents for tea that costs 12 cents to produce, and we will continue to pay a high price for tea until we have domestic competition with those who send their tea here. I quote from a letter written by Mr. George H. Macy, a tea expert, to the Senator from South Carolina [Mr. TILLMAN]:

> The opposition to a duty originates entirely from large foreign companies and domestic dealers, some of whom have a capital of $10,000,000.

Before the Committee on Ways and Means but a few years ago, when an effort was being made to take the duty off of tea, the importers of tea—this colossal organization, originated for their own profit and for the control of this market—went before the Committee on Ways and Means, and in a hearing, under oath, were obliged to say that their own profits had been curtailed 10 cents per pound by reason of the tariff. I ask those gentlemen, who are so solicitous about the consumers, to consider whether those importers told the truth when, under oath, they admitted that their profits had been curtailed by this duty upon tea, while the statistics amply demonstrate that the price of tea was not increased to the consumer a single penny by the imposition of the duty which we put upon it a few years ago; and there has been no reduction since that duty was taken off, as is suggested to me by the Senator from Montana [Mr. CARTER].

A few moments ago we were talking of the duty upon tea in England. Every great country in the world imposes a duty upon tea. England has a duty upon tea; and all those who have been talking about fashioning our domestic policy after the policy of England had better read the history of England a little more carefully. Some would have us abandon our protective principle and impose a tariff for revenue such as England imposes, in the face of the fact that the English people pay more per capita in import duties than the American people pay. While our import duties average about four dollars and a half per capita, the import duties of England average over $5 per capita, thus showing that to change our policy and adopt theirs would impose greater burdens upon the American people than they are called upon to bear to-day.

Russia imposes a duty on tea of from 16 to 44 cents a pound; Austria-Hungary, a duty of 19½ cents; Denmark, 8 cents; Germany, 11 cents; Italy, 22 cents; Norway, 24 cents; Spain, 13 cents; and France from 18 to 25 cents; and yet neither Russia, Austria-Hungary, Denmark, nor any of the countries enumerated can produce a pound of tea, and do not pretend to do it, while the Senator from South Carolina and the Department of Agriculture demonstrate beyond a question of doubt that there is a vast area in the South capable of producing all the tea that the American people desire.

I do not advocate this duty as a revenue proposition. If that were the only thing to be derived from it, I should not favor it; but I put it upon the ground that it is a protective duty; that it will stimulate that industry in the South, just as tariff duties have stimulated the sugar industry in Louisiana and the sugar industry in Michigan, lowering the cost to the consumer.

Mr. President, I do not intend to delay the Senate longer. I think that we ought to protect and encourage this infant industry. If, as has been stated by Democrats and Republicans, the duty proposed to be levied will not increase the cost of tea to the consumer, why should we not try an experiment so full of promise according to the report of every expert who has investigated it?

I feel very sure that in voting for this duty I am doing what those Representatives and Senators did who had the courage to vote for a duty on tin plate in order that it might be perpetually lowered to the consumers of our country.

As I have read the debates which took place in 1890, when the McKinley bill was under discussion, I have marveled at the range of wise prophecy which has been realized. There were pessimists in those days; there were doubters then; but, in view of all that has been achieved, we can smile at their doubts and their pessimism and go to the American people with every confidence upon a record of achievement which has no parallel in the industrial history of any country in the world.

Mr. BAILEY. Mr. President, with most of what the Senator from Indiana [Mr. SHIVELY] has so well said, I heartily concur. I am as much opposed as he could be to the hothousing process for the establishment of an American industry. I do not, however, consent to the proposition that a Democrat must never search for some new object of taxation, nor can I agree to the opinion that an article once on the free list must always be left there by Democrats.

As I now recall the history of this particular item, the first bill that distinctly and squarely put it on the free list was the McKinley bill. There was a provision for both tea and coffee in the act of 1846 when imported in certain vessels, as I said a moment ago; but the McKinley bill not only put tea and coffee on the free list, but, in its effort to delude the American people, also put sugar on the free list; and then invited the American people to sit down to what was called "a free breakfast table." When the Democratic party came into power in 1892 in the Presidential election and in the House, and afterwards obtained the control of the Senate, and we came to make a tariff bill, we were compelled to break up that free breakfast table, and we did it.

We did not take tea and put it on the dutiable list; we did not take coffee and put it on the dutiable list; but we did put a duty on sugar. Why? Because the Democratic party could not spare the something like $40,000,000 which the sugar duty would then yield to the Public Treasury. And I should not at any time hesitate to take from the free list any article that would yield an abundant revenue and transfer it to the dutiable list, if I could take some more necessary article from the dutiable list and transfer it to the free list. Nor should I hesitate to take an article from the free list and transfer it to the dutiable list, if by so doing I could greatly reduce the duty on a number of necessary articles, even though I did not put a single one of them on the free list.

Again, sir, I have devoted the very best part of my time and my very best energies from the beginning of this session until this day to an effort to subject new articles to taxation. In other words, I am now, and I always will be, in favor of subjecting to a tax any article whose consumers can well afford to pay it—not necessarily as high a tax as it will bear, but one as high as the revenue necessities of the Government require.

I should not hesitate a moment to take it from the free list and transfer it to the dutiable list, whenever I thought I could reduce the evil effects of protection by doing so, or whenever I felt that I could lift a burden from those who are ill able to bear it and lay it on those who are better able to bear it; and, in my view of the matter, Democrats must not adopt the policy that an article once free must always be free.

Again, I wish to suggest that Democrats who vote for revenue duties should not be confused—and of course the Senator from Indiana did not confuse them; he is too clear of mind not to understand that distinction—by the statement Senators on that side make that they will vote for a given duty for the purpose of protection, for by that means they could keep Senators on this side from voting for any duty at all. When we started to vote for a duty to raise revenue to support the Government, all that would be necessary would be for some Senator over there to rise and say, "I am going to vote for this duty for the purpose of protection;" and straightaway the Democrats would be compelled to abandon their measure; and the result would be that when we finished the bill, every article in it would be on the free list, and not a dollar's worth of revenue would be raised to support the Government.

It does not distress me that Senators stand up over there and say that they will vote for a given rate, even for the purpose of protection. It does not disturb me in my intention to vote for that rate, if I intend to vote for the same rate for the purpose of raising revenue. Two men may do the same thing from very different motives. One man may give a certain vote because he thinks it right and in the general public interest. Another man may be influenced to give that particular vote because it will aid some local industry or some personal interest. I do not judge the motives of men nor do I determine my vote thereby. I adhere to my rule, which is this: That we must raise revenue to support the Government; that in raising revenue for this purpose I want to compel as many articles as I can to contribute; not because I want to burden everybody, but because I know that the wider the distribution I make of these duties the lower I can make the duty on every article subjected to a

tax. And I thus serve a double purpose: I distribute the burden, and thus make it lighter on every man who bears it; and in addition to the lightening of the universal burden, I make it more equal.

No man has ever heard me say that I was in favor of protection because other States obtained protection. No man can find where I ever cast a vote upon that doctrine. And yet I say unhesitatingly that I can go into any forum of conscience on the earth and successfully defend the Senator who does say that. A Senator from any State has a right to say: "I abhor this principle; I am opposed to its application; but if you are going to apply it to any State, apply it to all States." He can do that.

Let me illustrate what I mean: Suppose the Republican majority should bring into this Chamber a proposition for a per capita tax of $100 on every man, woman, and child in the United States. I should oppose it. I should denounce it as unnecessary, oppressive, and unjust; and I should strive with all my power to defeat it. But if I could not defeat it, and if some man should rise up and say, "I move to amend by inserting: 'Provided, however, that the States of Rhode Island, Utah, and Massachusetts shall be exempted from the operations of this law,'" I should denounce that proviso.

I should first say: "Under the Constitution of the United States you can not make that kind of an exemption, because our fathers"—who were wiser in their day than many of us are in our day—"made it impossible." But, sir, if you should tear out by force and consign that provision to the flames, I should still oppose the exemption. I should say: "Your tax of $100 per capita is infamous, but all must bear its burdens, share and share alike."

But while Senators may say that, I have never said it. I have never said it, either here during the consideration of this bill or elsewhere. This is the third tariff bill I have participated in making. Twice I have participated in a very slight degree, because I was and am in a minority; once I participated when the Democrats were in the majority and were framing this bill. And in all the consideration of those three tariff measures no living man can find where I have ever voted for a duty on an article that would not produce revenue. Nor can he find where I ever failed to put an article of necessary and common use on the free list whenever the revenues of the Government would permit us to do so.

In addition to that, Mr. President, I have followed my creed. I will restate it, and then I will be through. My creed is this:

So far as the Government can dispense with the revenue, every necessary of life should go on the free list. At the other extreme stand the luxuries of life, and on them I would impose the highest duty that would raise the largest amount of revenue. In other words, I should never stop in raising the duty on a luxury of life until I had reached the maximum revenue-producing point. When I reached the maximum revenue-producing point, and found that a higher duty meant a smaller revenue, there I would stop, but not until then. Between those two extremes, with the necessaries of life on the free list and with the luxuries of life subjected to the highest duty of which they would admit, on everything else I would make the duty as low as the revenue necessities of the Government would allow.

Nor should I expect that a bill so framed would never be subject to change; because, as the years come and pass, if an article which had been a luxury should come to be one of common use, I would transfer it from the high duty to the more moderate one; or if, because of the substitution of some other article, one of the articles on the free list ceased to be necessary in the everyday life of the people, I should take it from the free list and put it back on the dutiable list. And from time to time, as the condition of the people and the development of the country required it, I would make my readjustment. But I would still always readjust according to the old-time, unchangeable Democratic principle—that the necessaries of life should be free as far as possible; that the luxuries should be taxed to the utmost limit, and that the articles between the two extremes should bear the lowest duty that would raise enough money to support the Government.

And still, Mr. President, I should not be content. I should go on striving from time to time to transfer some of these articles from the low schedules to the free list by subjecting the swollen fortunes of prosperous people to their just contribution toward the public support. I believe that whatever may be the difference between me and other Democrats as to a particular article, there is no difference between me and any real Democrat as to the principles which should govern.

Mr. CLAY. Mr. President, I have reached the point in the discussion of the tariff where I can scarcely get my bearings. I remember that when this debate began, the Senator from Rhode Island made a very elaborate argument, two-thirds of which was devoted to the assertion that this bill will produce enough revenue to support the Government.

Mr. ALDRICH. And the Senator from Rhode Island has not changed in the slightest degree from that view.

Mr. CLAY. I never said that the Senator had; I never thought of saying it.

Mr. ALDRICH. And existing conditions confirm my original judgment that no additional revenue is required.

Mr. CLAY. I had not intimated that the Senator from Rhode Island had changed his view in any particular. But I am going to apply it to certain other things that have transpired in the Senate; and I am going to take but a very few minutes to do it.

The Senator made a most critical examination of the different schedules, and how much revenue would be produced, distinctly stating that the bill will produce ample revenue to support the Government. The Senator now confirms that view. The Senator also told us that by rigid economy—and I observe that the different departments are now beginning to practice rigid economy—the expenses of the Government can be cut down to the extent of from thirty-five to fifty million dollars per year.

Again, when the income-tax proposition was presented to the Senate, the Senator from Rhode Island told the Senate and the country that this bill will produce ample revenue to sustain the Government without an income tax, and that if the income tax is adopted, and brings into the Treasury sixty or eighty million dollars per year, this sum will not be needed to pay the expenses of the Government, and we shall necessarily have to go over all the schedules and reduce them, and thus destroy the principles of protection.

My friend the Senator from Rhode Island told the Senate and the country that the worst enemy of the system of protection, the worst feature of legislation that could be adopted antagonistic to the protective system, would be an income tax, which would force the Finance Committee to reduce the rates generally in the bill, thus destroying protective principles. I think I am correct, and that statement is borne out by the CONGRESSIONAL RECORD.

Now, again, if the Senator was correct in regard to the amount of revenue this bill then produced, then unless you are going to change existing schedules I lay down the proposition that not $1 additional revenue should be raised. If you are going to raise $9,000,000 from tea, to add to the revenue, beyond any question, if the Senator was correct in the first instance, then there ought to be a reduction of $9,000,000 made somewhere else.

But now again the Senator from Rhode Island, the chairman of the Finance Committee, generally consistent and always intelligent, has told the country that an amendment which the Finance Committee has presented to the Senate, providing for a tax upon the dividends of corporations, will produce between forty and fifty million dollars. He has told the country that the railroads alone will pay between fifteen and seventeen million dollars. I believe that the tax on corporations, instead of producing $50,000,000, will produce $75,000,000. But, Mr. President, if the logic of the Senator from Rhode Island is good—and it was good—if we are going to adopt a tax on corporations, producing $50,000,000 per year, why will it not be necessary to go through every schedule of the tariff bill and reduce the duties so as to make them correspond with the revenue you raise by your tax on corporations?

If the Senator from Rhode Island was correct, that an income tax is a vicious assault upon the protective system, is not your tax upon corporations also a vicious assault upon your protective system? If the Senator found it necessary to revise the entire schedules in the bill in the event of the adoption of an income tax, will not the Senator find it necessary to revise the schedules if a corporation tax is adopted?

If the Senator was correct in the first instance, that the bill will produce all the revenue we need to meet the Government's expenses, is it not true that this additional corporation tax will put a surplus in the Treasury, and is it not the duty of the chairman of the Finance Committee to reduce the duties on clothing, on sugar, on boots and shoes, on the necessities of life, reducing the revenue equal to the amount that the corporation tax will produce?

Mr. President, if the Senator's position is consistent, the very minute that we adopt the corporation tax raising $50,000,000, the Senator will turn to the woolen schedule and turn to the sugar schedule—and I know of no subject that needs more attention at the hands of the Senate and the Finance Committee than the sugar schedule—and cut the duties on the necessities of life equal to the amount that will be produced by the corporation tax.

Mr. President, I expect to vote in favor of an income tax. If I knew that you were going to put $60,000,000 into the Treasury and not reduce the duties on the necessaries of life, I would say that you were unnecessarily taxing the people.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. Yes.

Mr. ALDRICH. Does the Senator from Georgia indulge in the hope that the Senate will reduce the duties on the articles he has mentioned?

Mr. CLAY. I can not hear the Senator.

Mr. ALDRICH. If the Senate should follow him and adopt an income tax, does the Senator think that we should go back and revise the schedules generally?

Mr. CLAY. I always deal frankly. I say to the Senator I would raise enough revenue to support this Government outside of the income tax until the income tax was held to be constitutional, and then, when it was held to be constitutional, I would go all along the line and reduce the duties on the necessaries of life.

Mr. ALDRICH. The Senator probably did not understand my question, or else he does not desire to answer it. Does the Senator——

Mr. BAILEY. I understood it, and I should like to answer it.

Mr. ALDRICH. I should like the Senator from Georgia——

Mr. BAILEY. The Senator from Georgia will pursue his own course.

Mr. ALDRICH. The Senator from Georgia seems to be able to make this speech.

Mr. BAILEY. And he is entirely able to take care of himself, and does not need any help.

Mr. ALDRICH. I would be glad if he would answer the question.

Mr. BAILEY. The Senator from Georgia did not hear it, and I did.

Mr. ALDRICH. My question was this: If the income tax was adopted by his vote, does he expect that we should go back and reduce the duties in the schedules in this bill?

Mr. BAILEY. You said you would.

Mr. ALDRICH. I beg the Senator's pardon.

Mr. BAILEY. The RECORD will show, when you were appealing to your side not to depose you as leader that afternoon when we thought we would probably defeat you on that vote, you said: "If the income tax is adopted, I would feel it necessary to go back and revise every schedule in this bill." I have not looked at the RECORD since that day, but I will have it examined, and the Senator will find that I have substantially quoted him.

Mr. ALDRICH. I do not expect the income tax to be adopted——

Mr. BAILEY. Did you say that?

Mr. ALDRICH. And if it were adopted, I do not expect to destroy the protective system now.

Mr. BAILEY. But did you not say that you would go back——

Mr. ALDRICH. I think perhaps it would be destructive in time.

Mr. CLAY. The Senator said it. I have the RECORD here.

Mr. ALDRICH. What I am trying to find out from the Senator from Georgia is whether he would vote for an income tax if he thought it would not be possible to revise this protective tariff according to his ideas, downward.

Mr. CLAY. I will vote for an income tax, because I believe it to be right, and I would continue to battle before the country to induce the country to send Representatives to Congress who would enact it into a law and who would reduce the tariff duties on the necessities of life in proportion to the amount raised by an income tax.

I want to ask the Senator a question. If we are to raise $50,000,000 per year by a tax on corporation dividends, does the Senator think that such a tax is a vicious assault upon the protective system; and, second, if this bill, as it stands, will produce enough revenue to support the Government and we adopt the corporation tax, raising $50,000,000, does not the Senator think we ought to take up some of the other schedules of this bill and reduce the duty in proportion to the amount that we raise by the corporation tax?

Mr. ALDRICH. Does the Senator from Georgia want an answer?

Mr. CLAY. I would not have asked the question if I did not.

Mr. ALDRICH. I shall vote for a corporation tax as a means to defeat the income tax.

Mr. CLAY. I think that is an honest statement.

Mr. ALDRICH. I will be perfectly frank with the Senate in that respect. I shall vote for it for another reason. The statement which I made shows a deficit for this year and next year. This year I estimated $69,000,000. It will be $60,000,000. And next year I estimate a deficit of $45,000,000. I am willing that that deficit shall be taken care of by a corporation tax. That corporation tax, however, at the end of two years, if my estimate should be correct, should be reduced to a nominal amount or repealed. It can be reduced to a nominal amount, and the features of the corporation tax that commend it to many Senators and a great many other people is that the corporation tax, if it is adopted, will certainly be very largely reduced, if not repealed, at the end of two years.

So I am willing to accept a proposition of this kind for the purpose of avoiding what, to my mind, is a great evil and the imposition of a tax in time of peace when there is no emergency, a tax which is sure in the end to destroy the protective system. I have been perfectly frank with the Senator in stating my own views on the subject.

Mr. BAILEY. Will the Senator from Georgia permit me?

Mr. CLAY. Certainly.

Mr. BAILEY. I simply want to commend the statement of the Senator from Rhode Island to those Senators who say they are in favor of an income tax and who join with him in this subterfuge to defeat it. The Senator from Rhode Island has very frankly served notice on those Republicans whom he has won from the income-tax amendment to the support of the corporation tax that it is to be entirely repealed or at least emasculated within the next two years; and so, after all, it is simply a contest between an income tax as a permanent part of our fiscal system and a corporation tax as a subterfuge for two years. That clarifies the atmosphere, Mr. President.

Mr. ALDRICH. The corporation tax is not a subterfuge in any sense of the word. It is a tax upon the incomes of corporations, which is clearly within the constitutional right of the Congress to impose, and those Senators and others who are honestly in favor of the imposition of an income tax which is constitutional and can be so held and will be operative, will certainly support the proposition offered by the committee, the proposition of the administration, as against the proposition of the Senator from Texas, which is certainly, in the minds of most thoughtful people, unconstitutional and unwise in all its provisions.

Mr. BAILEY. Not the most thoughtful, but the least thoughtful.

Mr. ALDRICH. That is the difference between the Senator from Texas and myself. I used the term "most thoughtful" because I thought it was a most proper designation of the people supporting this proposition.

Mr. BAILEY. I may say that the President of the United States thought with me once, until the Senator from Rhode Island persuaded him or he persuaded the Senator from Rhode Island, and I am not prepared to say which. But I only trespass upon the Senator's time far enough to reassert my characterization of this as a subterfuge, and my direct authority for saying—although I did not need it, for I knew it before—is the statement of the Senator from Rhode Island that he votes for the corporation tax for the purpose of defeating the income tax. If that does not define a subterfuge, I need a new dictionary.

Mr. ALDRICH. I stated, and I will repeat, that the proposition of the Senator from Texas, in the opinion of a great majority of the thoughtful lawyers of the United States, is unconstitutional. It is an attempt in time of peace to take the taxing power, which was only intended for use in emergencies, and try to force it upon the American people, accompanied by the declaration which my friend, the Senator from Texas, has had the courage to make, that it is the purpose to destroy the protective system. Now, I say, on the other hand, that those men who believe that we can tax corporations in a perfectly constitutional way will support the proposition of the administration.

The Senator from Texas says he does not know whether the President of the United States succeeded in persuading me to support this amendment or whether I succeeded in persuading him. I will say to the Senator from Texas that this proposition of the President of the United States was made to the House Committee on Ways and Means long before I considered the subject at all, and I am here as a Republican to support the President and the Republican administration as far as I can consistently with my views of my duty to the country and my position as a Senator. I shall vote for this proposition for the very purposes I have named, and among them the fact that it is a Republican proposition and has the support of the President of the United States is not the least controlling.

Mr. BAILEY. The Senator has not told us whether he persuaded the President or the President persuaded him.

Mr. ALDRICH. I think I did. I said this proposition in terms was made to the Ways and Means Committee of the House of Representatives.

Mr. BAILEY. Who made it?

Mr. ALDRICH. By the President.

Mr. BAILEY. In a communication?

Mr. ALDRICH. In a communication to the Republican members of that committee.

Mr. BAILEY. That is a new way to communicate with Congress, not recognized in the Constitution.

Mr. ALDRICH. That is the way a President would naturally communicate with Republican or Democratic Representatives, as the case may be. He would communicate, naturally, with committees, and not in messages to Congress. I have made the statement because I want to be perfectly frank with Senators, as far as I am concerned, and I have told the whole story.

Mr. BAILEY. The Senator has not told the whole story, if he will pardon me for saying so, because, notwithstanding the President's recommendation in that grapevine communication to the Ways and Means Committee of the House, his suggestion was not adopted, and it laid in abeyance or at rest until it became apparent that unless something was done the Senate would adopt the income-tax amendment to this bill, and in that necessity of the case it is revived.

It is said to be a woman's province to be curious, but I have the same kind of human nature in my composition, and I am a little curious to know whether, when they set themselves to work to defeat this income-tax amendment, the President made this suggestion to the Senator from Rhode Island or the Senator from Rhode Island made the suggestion to the President; and in this unusual burst of confidence to which the Senator has treated the Senate I think he could well afford to tell the Senate whether the Senator suggested it to the President or the President suggested it to the Senator.

Mr. CLAY. Mr. President, I think I can not yield further.

Mr. ALDRICH. In answer to the suggestion of the Senator from Texas, I suppose the Senator seriously does not expect an answer to that proposition. It will not be possible for me to say; and if it were possible for me to say, I should not.

Mr. BAILEY. Then the Senator is not entirely frank with the Senate.

Mr. ALDRICH. I am not inclined to be frank about a private conversation I have with anybody. I think that is a matter between myself and the person.

Mr. BAILEY. I supposed there were no private conversations between public officials with respect to public matters.

Mr. ALDRICH. The Senator is entirely mistaken.

Mr. TILLMAN. With the kind permission of the Senator from Georgia——

Mr. CLAY. I hope Senators will permit me to conclude.

Mr. TILLMAN. I am not going to make any speech, but I am going to state a fact which it seems to me has escaped the minds of Senators. We have gone beyond the understanding that we were not to take up the income tax until the dutiable schedules are completed. The Senator from Rhode Island this morning served notice that as soon as the amendment on tea which I offered is disposed of he would then move to lay on the table any amendment proposed to the schedules of the bill. Now, my poor little tea baby is lying in the pine woods crying for pap or something of that sort, asking for votes which will give us $9,000,000 of revenue and satisfy the Democrats and give us $1,200 of protection and satisfy the Republicans, and Senators jump up this income tax, corporation tax, subterfuge, humbug, whatever it may be, and my poor little infant goes on suffering. Let us get back to the tea.

Mr. CLAY. Mr. President, I wish to consume only a few more minutes of the time of the Senate.

Mr. GORE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oklahoma?

Mr. CLAY. I do; but this is the last time I am going to yield.

Mr. GORE. Mr. President, just a minute. I merely wish to commend the Senator from Texas for the interesting information he has drawn out; and I hope he will be able to induce the Senator from Rhode Island to state whether the President has the same object in view that the Senator from Rhode Island has in this corporation tax as a substitute for the income tax. I wish to know whether the President of the United States has made himself a party to this plan to sidetrack Congress with reference to the income-tax amendment?

Mr. ALDRICH. I am not called upon to speak for the President of the United States. The Senator from Oklahoma has, I suppose, the same facility all of us have for finding out the opinion of the President of the United States on this or any other question. I am not——

Mr. BAILEY. He only sends public communications to us. His private ones are intended for the Republicans.

Mr. ALDRICH. Oh, no.

Mr. CLAY. I think the Senator from Rhode Island has been pretty frank in one respect in regard to this matter. The Senator has told us that he was not in favor of this corporation tax as an original proposition, and that he simply consented to it for the purpose of defeating the income tax.

Mr. ALDRICH. The Senator goes a good deal further than I went in that statement.

Mr. CLAY. I do not want to do the Senator any injustice.

Mr. ALDRICH. I did not say whether I would be in favor of the corporation tax as an original proposition or not. I said I was voting for it now, when there is no revenue needed from my standpoint, except possibly for the deficiency which might occur this year and next year; and for that purpose a tax on corporations is a wise tax. I think the amendment which I have offered has other provisions which are wise and salutary. It provides for the publicity of the business of all corporations in the United States through the imposition of the taxing power of this Government. It puts, in a certain sense——

Mr. CLAY. I hope the Senator will not discuss it now.

Mr. ALDRICH. The Senator from Georgia was undertaking to say what my opinion is, and I was trying to correct him. I do not intend to take up his time; but at the proper time and under proper circumstances, when permitted in my own way to explain my views, I prefer to do that. I desired to correct the Senator from Georgia in his statement as to what my views were.

Mr. CLAY. Mr. President, I do not go, probably, as far as some of the members of my party in regard to the income tax. I am in favor of an income tax, but I am frank to confess that I would not regard the revenue derived from an income tax in providing means to support the Government until the question was tested and decided in the Supreme Court. I would not consider for a certainty that we had $80,000,000 of revenue from that direction until I knew that the law was declared to be constitutional. I would be perfectly willing to vote to send that question to the Supreme Court to be reargued, and I hope, after a rehearing, the court will decide in favor of its constitutionality.

I concede that you can not rely absolutely upon the revenue coming from that tax until that question is settled, but I think this——

Mr. ALDRICH. Will the Senator allow me to ask him a question? Will the Senator vote for an income tax which will levy at least $125,000,000 upon the people of the United States, with his doubts about its constitutionality, in preference to a tax upon corporations, which is admittedly constitutional and which would raise forty or fifty million dollars?

Mr. CLAY. I never had the least doubt about the constitutionality of the income tax until the decision was made, which has often been referred to on this floor, during Mr. Cleveland's administration. Of course it becomes the duty of every good citizen to accept the decision of the Supreme Court on any question as final, but time and again not only the Supreme Court of the United States, but the highest tribunals in our States, after a rehearing, have reversed themselves on important questions.

In regard to the corporation tax, I am going to vote first for an income tax and to send this question back to the Supreme Court, and then if that proposition should be voted down I am going to vote in favor of a corporation tax. I want to say though, and I believe that I am justified in making this statement under the facts: As an original proposition, the Senator from Rhode Island most assuredly was not in favor of a corporation tax, because if he had been he would have prepared the bill on that line, and he would have incorporated it in this measure. The Senator is bound to concede that if we raise $60,000,000 by reason of this incorporation tax there is no excuse for leaving the schedules in the bill as they stand to-day. Suppose we are to raise $75,000,000, Mr. President, then you add an additional $75,000,000 of revenue. If the bill originally raised enough revenue to support the Government, why ought we not to make the reductions so as to make the expenditures and the receipts equal to each other in the Government? If we do not need this $75,000,000, and if we do not intend to make any other reductions, I ask the Senator what excuse we can give to the people of the United States for raising $75,000,000 revenue we do not need and do not expect to expend, and at the same time do not relieve them of a part of the burdens of taxation?

Mr. ALDRICH. Mr. President, I thought I made my own position perfectly clear. I decline to vote for an income tax of

$125,000,000, offered by the Senator from Texas, as the representative of the Democratic party in the Senate, when that proposition, to my mind, clearly involves unconstitutional provisions, and I decide for myself to follow the President of the United States, a Republican, in the proposition to impose a tax upon corporations, which is admittedly constitutional, and which will raise money enough this year and next year to meet the deficiency which we all admit there will be in the revenues.

Mr. CLAY. If the Senator from Rhode Island has ever been in favor of an income tax either before or since that decision was made by the Supreme Court, I am not aware of it. If the Senator will examine the CONGRESSIONAL RECORD and see his own expressions, he will find that time and again on the floor of the Senate he has declared that an income tax was socialistic in its nature.

Mr. ALDRICH. There is no concealment about my position in regard to this matter. I am opposed to an income tax. I think an income tax never ought to be imposed except in times of stress or emergency when it is not possible to raise revenue from the ordinary sources. There can be no question about my views upon that subject. I have not changed them and I will not change them by any proposition which I have made now.

Mr. CLAY. But I understood from the remarks of the Senator that he was now opposed to an income tax purely on the ground that the Supreme Court had declared it unconstitutional.

Mr. ALDRICH. That is an additional ground.

Mr. CLAY. Mr. President, I am justified in saying that the Senator was correct when he said to the Senate and the country that he consented to this corporation tax, which will produce fifty or sixty million dollars, solely for the purpose of defeating the income tax.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. CLAY. Certainly.

Mr. ALDRICH. I did not say "for the purpose solely of defeating the income tax." I said that was one of the reasons why I should vote that way, and I certainly should not have been frank with the Senate if I had not stated it.

I desire to say one thing further about the proposition of the Senator from Texas which he has reported and which he and his party associates stand for, as I understand him. The imposition of an income tax now is not only an attempt to adopt an unconstitutional provision, but it is an assault, a rebuke in any way, of the Supreme Court of the United States. There can be no question in my mind about that. The Supreme Court have decided this question. They argued it twice, and they have decided it after deliberation, and now, without any change in that decision or without any belief on the part of most people that there is any possibility of a change in that court, it is proposed that we shall fly in the face of that decision and rebuke the highest judicial tribunal in this country by undertaking to enact legislation which is contrary to every principle which was asserted in their last decision.

Mr. McLAURIN. Will the Senator from Georgia allow me to ask the Senator from Rhode Island a question?

Mr. CLAY. Certainly.

Mr. McLAURIN. When the moot case of Pollock was presented to the Supreme Court, up to that time——

Mr. ALDRICH. Why does the Senator call it a moot case?

Mr. McLAURIN. I regard it as a moot case.

Mr. ALDRICH. That is the Senator's own opinion, but the Senator realizes, of course, that it was not a moot case.

Mr. McLAURIN. The same interests were on both sides of that case. The plaintiff and the defendant in that case were both interested in having the case decided against the defendant.

Mr. BEVERIDGE. Will the Senator permit me? He perhaps forgets that in that case there was an intervener, a trust company of New York, which wanted to uphold the tax. It was represented by Mr. Carter, who perhaps made the most learned argument for upholding the tax. The Senator is wrong about his facts.

Mr. McLAURIN. Both parties were interested in the same decision. Up to that time the Supreme Court had held the income tax was unconstitutional. Now, did it appear to the Senator from Rhode Island——

Mr. ALDRICH. Did not the Democratic Attorney-General appear for the Government of the United States?

Mr. McLAURIN. That is not pertinent to this question.

Mr. ALDRICH. I think it is a very pertinent question. The Senator calls this a moot case. Does the Senator mean that the Democratic Attorney-General was a party to some collusive agreement to strike the law down?

Mr. McLAURIN. So far as my question, it was not a moot case.

Mr. ALDRICH. Will the Senator answer the question? Does he think the Democratic Attorney-General was in collusion with other parties to try to strike the law down.

Mr. McLAURIN. Suppose there was a Democrat——

Mr. CLAY. I hope the Senator will allow me to proceed.

Mr. McLAURIN. Certainly.

Mr. CLAY. Now, Mr. President, just one word and I am through. Here is my position: I feel sure that the income-tax provision would have been adopted and sent to the Supreme Court for its consideration had this corporation tax not been presented to the Senate, and I believe I am justified in saying that it was presented for the purpose of defeating the income tax.

Mr. President, I do not regard it as any reflection upon the Supreme Court of the United States that we should ask that court again to hear this question and pass upon it. Lawyers familiar with the history of that great court will readily concede that time and again applications for a rehearing have been made before that court and passed upon, and the same can be said in regard to the highest judicial tribunals in the different States in this Union. That court at first decided this tax constitutional by one majority, and afterwards against its constitutionality by one vote. I am not making any reflection upon the court; but I insist that it is the privilege of this Congress to send that question to the court again and ask the court to hear arguments, and no Senator has a right to say that a vote in favor of the income tax is a reflection upon the Supreme Court of the United States.

Now, what will be the result? Mr. President, we will adopt the corporation tax. A majority of the Senate will defeat the income tax. We will in all probability adopt an amendment submitting that constitutional amendment to the different States, and, Mr. President, I predict that the chairman of the Finance Committee will never exert his great influence and his great intellect in favor of the adoption of that feature by the different States in the Union. I predict, Mr. President, that when we adopt it twelve States of this Union will defeat it, and after it is defeated, then the income tax will be at an end. It is the very best way that you could defeat it. You will come back to Congress and say that the question was submitted to the different States and that twelve States defeated it, and then, if that is done, and you should go to the Supreme Court it can be said that the people failed to adopt it, when an overwhelming majority of the people of the United States are in favor, in my judgment, of an income tax.

But I rose for one purpose, and that purpose was this: If this corporation tax is adopted, and we provide $60,000,000 of revenue, we can not excuse ourselves to the American people for our failure to make reductions where we have raised this sum by a corporation tax. I believe an income tax more equitable than a corporation tax.

Mr. LODGE. The Senator, of course, is aware that according to the amendment offered by the Senator from Texas there is embodied not only an income tax, but a corporation tax and an inheritance tax.

Mr. BAILEY. That is correct; and a tax on gifts, too.

Mr. LODGE. Devises and bequests.

Mr. CLAY. That is correct.

Mr. LODGE. So the Senator holds them all three equitable and inequitable.

Mr. CLAY. I think that an income tax on individuals and on corporations, beginning at a certain sum—five or ten thousand dollars per year, a graduated income tax—is absolutely just and equitable. If I am not incorrectly informed, Massachusetts has an income tax. Am I correct in that?

Mr. LODGE. Yes; Massachusetts has an income tax.

Mr. CLAY. There are only a few States in the Union that have adopted an income tax. A great many of the States in the Union have adopted an inheritance tax. If the Senator from Rhode Island was correct when he said if an income tax were adopted it would be necessary to go over all these schedules and that it was a severe blow to protection, then the Senator must admit that if we adopt the corporation tax and raise fifty or sixty million dollars, it is equally necessary to go over the different schedules and make reductions, and one is as severe a blow to the principles of protection as the other.

Mr. McLAURIN. Mr. President, I will state the question which I intended to propound to the Senator from Rhode Island [Mr. ALDRICH] when I was taken off the floor by the impatience of the Senator from Georgia [Mr. CLAY]. The Senator from Rhode Island regards it as a rebuke to the Supreme Court for the Congress to enact an income tax after the Supreme Court of the United States has decided in the Pollock case that that income-tax law was unconstitutional. Up to that time, for more than a hundred years, the Supreme Court of the United

States had held that an income tax was constitutional, and had so held time and time again. Was it a rebuke to the Supreme Court for the plaintiff in that case to go before the court and contend that the decisions of the Supreme Court were up to that time unwise, unjust, and in violation of the Constitution? If not a rebuke to the Supreme Court for the plaintiff in that case to contend that the decisions theretofore rendered by the Supreme Court were wrong, how could it be a rebuke for the Congress of the United States now to pass another law for an income tax, somewhat dissimilar to the law that was enacted in 1894 in the Wilson Act?

Mr. BAILEY. Mr. President, I want to suggest, in addition to what the Senator from Mississippi [Mr. MCLAURIN] has said in reply to what the Senator from Rhode Island [Mr. ALDRICH] has said, that in this very case a justice of the Supreme Court changed his mind between the argument and the reargument. If a justice can do that and be honest—and I have no doubt in this world that he can change his mind and be honest; indeed, I think men who change their minds are sometimes more honest than some who do not change them, though they have been convinced—are we to say that this justice had not the right to change his mind? If he had the right to change his mind between the argument and the reargument, have we not the right to assume that justices even who were on the bench at that time may have changed their minds? But, sir, does the Senator forget that a great change in the personnel of that bench has occurred?

The Senator from Rhode Island and no other man in this country would have ever presented the Pollock case to the same Supreme Court that decided the Springer case. If the same judges had sat when the Pollock case was brought who sat when the Springer case was decided, no case would have ever been carried to that tribunal. It was the very change in the personnel of the court—and that is an important matter, as was made manifest by the present President of the United States who, in his Columbus speech, referred to that—the very change in the personnel of the court not only makes it permissible, but makes it respectful to submit the question again to that tribunal.

Mr. DIXON. Mr. President, I am as adverse as anyone to taking up any more time about this amendment on tea; but as the Senator from South Carolina [Mr. TILLMAN] has said, his infant has become utterly neglected during the last hour of this debate, I think we at least ought to understand what we are voting upon. I think I am a pretty consistent protectionist. I sincerely and honestly would in some way like to vote to help develop what I believe would be a great tea industry in this country. I am willing to go to almost any extreme for the sake of developing a new industry in this Republic. I am willing at this time, and, as I said to the Senator from South Carolina this morning, I would gladly vote for a bounty of 10 cents a pound for ten years upon every pound of tea that could be produced in the South. I think that in itself would greatly tend to develop that great industry here; but there are some extremes to which, as a protectionist, I can not consistently go. In this case we are asked to vote an amendment carrying a duty of at least 50 per cent in nearly every class of tea imported, and in the cheaper grades of tea a duty of 75 or 80 per cent, for the purpose of protecting 12,000 pounds of tea produced at this time.

Mr. TILLMAN. Not protecting at all, but just getting $9,000,000 of revenue.

Mr. DIXON. Getting $9,000,000 of revenue, it is true; but if you put the amendment on a tariff for revenue basis, we cannot support a tariff for revenue based on a 50 to 75 per cent duty. I do not think we can consistently do that.

Mr. TILLMAN. We put a 128 per cent increase on pineapples only two or three days ago.

Mr. TALIAFERRO. Mr. President, that is a very unfair statement.

The PRESIDING OFFICER (Mr. CARTER in the chair). Does the Senator from Montana yield to the Senator from Florida?

Mr. DIXON. Yes.

Mr. TALIAFERRO. That was only 30 to 32 per cent.

Mr. TILLMAN. It is pretty hard to be consistent here. Anybody who undertakes to hunt consistency in this Chamber will have a very difficult job.

Mr. TALIAFERRO. Mr. President——

Mr. TILLMAN. I am not complaining of the duty on pineapples. I am only talking to my friend from Montana here, who is discussing the question of what we are proposing to do as to tea.

Mr. TALIAFERRO. We ought to be able to get at the facts. There certainly is no duty of 128 per cent on pineapples.

Mr. TILLMAN. Well, an increase of 128 per cent over the previous duty.

Mr. TALIAFERRO. The case would have been more fairly stated if the Senator from South Carolina had said that the duty was from 30 to 32 per cent.

Mr. TILLMAN. I had not figured out what the duty on the value of the article was, because I did not know.

Mr. DIXON. Mr. President, I am glad that the Senator from South Carolina brought up the question of pineapples. I voted for the pineapple duty of, as I understood it, about 25 to 30 per cent, because at this time we do produce about one-third of the pineapples consumed in this country; but I think it is carrying protection to the furthest extreme for the people of this country to deliberately add $10,000,000 a year to the cost of tea for the sake of protecting 12,000 pounds grown in one State.

Mr. TILLMAN. Has not the Senator from Montana heard the statements made here, and repeated time and again, coming from the best sources of information possible, that the duty does not increase the price; that when we put a duty of 10 cents a pound on tea during the Spanish war the price did not go up to the consumer, and when we took it off it did not go down, and that this is one case in which the duty will be paid by the producing countries and by a reduction of the profits of the retailers?

Mr. DIXON. I have heard that argument advanced on this side of the Chamber.

Mr. TILLMAN. It is not only an argument, but it is a fact, based on all the prices quoted in the newspapers and in the other instrumentalities which merchants use to send their prices out.

Mr. DIXON. But this is the first time I have heard that thing demonstrated on the other side of the Chamber.

Mr. TILLMAN. Yes; and it is the first time, I believe, when it could be demonstrated. I am a believer in the doctrine that the consumer pays the duty, but this seems to be the exception which proves the rule.

Mr. DIXON. Except in the case of tea.

Mr. TILLMAN. Tea is the one thing where the consumer does not pay the duty.

Mr. DIXON. It has been my experience, Mr. President, that at various stages in this debate there have been exceptions to rules drawn in different parts of the Chamber, and this is one. I wish to say to the Senator from South Carolina that I want to help the tea industry. I would gladly vote for a bounty of 10 cents a pound for ten years, which, I think, would demonstrate the fact whether or not we can raise tea in the United States successfully. I believe we can; but to deliberately add $10,000,000 to the cost of tea drinking in the country for the sake of 12,000 pounds produced at this time, I think, is protection gone mad.

Mr. JONES. Mr. President, I want to suggest, in that connection, that, as I understand it, those 12,000 pounds of tea are produced by one individual, and he is making money out of the business.

Mr. DIXON. That is important.

Mr. TILLMAN. That is simply because he is the only producer and has a special class of consumers, who find that they can get the best tea in the world in South Carolina, and so they send down there and pay him fancy prices; but if it becomes an industry into which hundreds of thousands of people will enter, they will have to go into the markets and compete with the Japanese, the Chinese, the people of Ceylon, and other oriental countries.

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Texas?

Mr. DIXON. I do.

Mr. BAILEY. Mr. President, nothing better illustrates the difference between a Democrat, who is a revenue advocate, and a Republican, who is a protectionist, than the statement which the Senator from Montana [Mr. DIXON] has just made. He declares that this duty would add $10,000,000 to the expense of the tea drinkers of the country, and he leaves us to suppose that it disappears in the clouds; but he must remember that the $10,000,000, which the tea drinkers pay, go into the Treasury of the Government to lighten the burdens of somebody else.

Mr. DIXON. There is no question about that.

Mr. SCOTT. Will the Senator from Montana allow me to interrupt him a minute?

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from West Virginia?

Mr. DIXON. I do.

Mr. SCOTT. I believe that the majority, speaking of this tea question, if they are protectionists, have made a mistake. My

theory as a protectionist is, and always has been, that the protection of the home industry always lowers the price of the article. I have no apology to make, though the Senator from South Carolina [Mr. TILLMAN] said a while ago that the majority would have to apologize for some of their votes. I shall not, for I have voted consistently on this tariff bill from the standpoint of a protectionist. If we can produce tea in this country, it will only be a short time before this production will bring the price down. This has been proved in the case of every article protected, manufactured or agricultural, in the history of protective tariffs. That is the kind of a protectionist I am.

Mr. DIXON. And that is the kind of a protectionist I am; but when you start with only 12,000 pounds to supply an importation of 90,000,000 pounds, when we know it will take years to grow the tea plant, it is a different proposition. If it takes five years, the people will pay $50,000,000 for the sake of establishing the industry; and if it takes ten years, they will pay over $100,000,000.

Mr. SCOTT. If this proposed duty be imposed, the people will not pay a cent more for tea than they are paying to-day. The Senator from South Carolina stated the case very properly when he said that the history of the price of tea substantiated the assertion that when the duty went on or went off it did not change the price of tea to the consumer.

Mr. DIXON. I want to confess that the Senator from South Carolina has almost demonstrated to me that the consumer does not pay the tariff duty.

Mr. TILLMAN. On this thing.

Mr. DIXON. But there is another feature of it that I think the friends of the inheritance tax, the income tax, and the corporation tax do not take into consideration. There is no question of the widespread feeling here that some Senators would like to get some kind of revenue that would make it impossible to add an inheritance-tax or a corporation-tax or an income-tax provision to this bill. Here you are adding $10,000,000 in one lump sum, and every time you add $10,000,000 to the revenues under the bill it is one more vehement argument why neither the income nor inheritance nor corporation tax should be adopted. I think the vote on this tea proposition is surrounded with a lot of difficulties, and I would beg the Senator from South Carolina to let us avoid the dangers which come with it and take 10 cents a pound bounty on tea. I assure him that from what I have heard in the Chamber I think it will receive almost a unanimous vote on the Republican side.

Mr. PERKINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from California?

Mr. DIXON. Gladly.

Mr. PERKINS. I want to give my friend from Montana an object lesson which will enable him to ease his conscience and vote for the proposed amendment of the Senator from South Carolina. Twelve years ago layer raisins and Zante currants, but raisins in particular, were worth from 10 to 15 cents a pound. We succeeded in getting a duty of 6 cents a pound placed upon them under what is known as the "Dingley law." We were then producing no raisins, comparatively speaking, in the United States. To-day raisins are selling for 3 and 3½ cents a pound in California, and we are producing enough layer raisins of the best quality to supply every person in the United States with them.

Mr. SCOTT. That is good Republican doctrine.

Mr. DIXON. The Senator from California has undoubtedly convinced my friend from West Virginia of the potency of his argument.

Mr. PERKINS. It is unanswerable, it seems to me.

Mr. DIXON. I will ask the Senator from California to what extent raisins were raised in California at the time the duty was imposed?

Mr. PERKINS. Comparatively speaking, there were none raised. We demonstrated the fact that it was practicable to raise them, but they had not been raised to any extent until this duty was placed upon them.

Mr. DIXON. What were raisins selling for when we put on 2 cents a pound duty?

Mr. PERKINS. From 10 to 15 cents a pound for layer raisins. To-day they are sold at retail in California at 3 cents a pound in any quantity, and we are selling them by the carload for 3 cents a pound.

Mr. DIXON. In that case the duty was 2 cents per pound?

Mr. PERKINS. Two cents per pound.

Mr. DIXON. Which is about 20 per cent, or less than 20 per cent. In this case we are asked to vote for a duty of not less than 50 per cent on the higher grades of imported tea; and in the case of tea which is imported at 15 cents per pound, it would be a matter of 66⅔ per cent.

Mr. PERKINS. The report of the Agricultural Department shows that it costs to raise tea in Ceylon and Formosa from 10 to 12 cents a pound.

Mr. DIXON. Then we would be putting on a 100 per cent duty under the amendment of the Senator from South Carolina. I want to help the Senator——

Mr. TILLMAN. How much duty did you put on Montana wool?

Mr. DIXON. About 7 cents a pound.

Mr. TILLMAN. How much is wool worth without it?

Mr. DIXON. Wool is worth about 23 or 24 cents in the market.

Mr. TILLMAN. What was it worth without a duty?

Mr. DIXON. When we had no duty, the woolgrower went bankrupt and wool was worth nothing.

Mr. TILLMAN. Very well; then the duty on wool, when wool sold for 10 cents per pound, was about 50 or 60 per cent. You hug it and how sweet it is, and you wrap yourself in it and keep it. [Laughter.]

Mr. DIXON. It is a fine duty, Mr. President, but the Senator forgets that we were raising 50,000,000 pounds of wool at the time the duty was put on. Suppose we had only been raising 1,200 or 12,000 pounds of wool in this country?

Mr. TILLMAN. Mr. President, the Senator may be uncomfortable, but I have demonstrated, beyond all possibility of reasonable dispute, that this is a protective duty, which will develop the tea industry in the South.

Mr. DIXON. There is no question about that.

Mr. TILLMAN. Very well, then; the Senator ought to stop caviling and complaining and other objections, and he ought to "go it blind," like he has been "going it blind" after our friend from Rhode Island [Mr. ALDRICH] all these months. [Laughter.]

Mr. DIXON. I confess the Senator from Rhode Island has been a little more reasonable in his demand for protective duties than is the Senator from South Carolina in this case.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Connecticut?

Mr. DIXON. I do.

Mr. BRANDEGEE. I should like to ask the Senator from South Carolina how long it takes a tea plantation to get started and to become a producing plantation?

Mr. TILLMAN. I think you can begin to gather the leaves the third year; and as the plant grows in size and in strength, with the deep-root system, the foliage will increase and the yield increase. It will take ten or twelve years for a bush to get to its full productive capacity.

Mr. BRANDEGEE. Has the Senator any idea what it costs per acre to plant a tea plantation?

Mr. TILLMAN. I have not; but I would not think it would be very expensive when lands are so cheap. The main trouble is preparing the land for the plants, underdraining, cutting out the roots, putting on lime, and all that sort of thing.

Mr. DIXON. The Senator from South Carolina frankly says that he wants 10 cents a pound, as a matter of protection, to develop the tea industry in the South.

Mr. TILLMAN. I say "protection" on the other side, but I want $9,000,000 for revenue on this side. [Laughter.] This is the only proposition that has come in here that catches you all; and it is only by all sorts of quibbling and inconsequential reasoning that you can vote against this proposition. I ought to get the vote of every solitary Republican protectionist in this Chamber, and I ought to get the vote of every solitary Democrat for revenue in this Chamber.

Mr. DIXON. The Senator shoots with a double-barreled gun.

Mr. TILLMAN. Surely; it is the only double-barreled gun that has been in here, too. [Laughter.]

Mr. DIXON. But when he asks the Democratic Senators to vote for a 66 per cent duty upon a tariff for revenue, and the Senator asks us to vote $50,000,000——

Mr. TILLMAN. Do not multiply it so. It is only eight or nine million dollars to begin with, though I do not know what it might grow to, as the quality of tea improves and people begin to like it better.

Mr. DIXON. The Senator says it will take three years before they can begin to pick tea leaves from the plants. If everybody in the South started tea farms the minute this bill passed——

Mr. TILLMAN. But I am not afraid about them all starting. I am afraid the number who will be benefited by this will be very limited.

Mr. DIXON. Now, cold-bloodedly, the Senator wants this duty for the purpose of developing a new industry. I am wholly in sympathy with that, but the price we have to pay for it is too big.

Mr. TILLMAN. I tell you you do not have to pay anything—that is where the good part of it comes in—because the consumer will not have to pay any more for his tea than he does now.

Mr. DIXON. I want the Senator from Rhode Island to take note of the new Democratic doctrine enunciated this morning by the Senator from South Carolina.

Mr. TILLMAN. If it be that this is new Democratic doctrine, which gets $9,000,000 of revenue and $1,200 protection, I will stand the responsibility for it at any time and anywhere.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Washington?

Mr. DIXON. I do.

Mr. JONES. As I understand, the Senator from South Carolina is urging the Republicans to vote for his amendment on the ground of protection. I wonder whether or not the Senator indorsed the Democratic platform of a few years ago, which denounced protection as robbery, and whether the Senator is trying to have the Republicans here commit robbery.

Mr. TILLMAN. No; you will not rob anybody if we only get $1,200 from it.

Mr. JONES. Twelve hundred dollars is as much robbery as a larger sum.

Mr. DIXON. I observe the Senator from Washington and the Senator from South Carolina are firing the other barrel now.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Missouri?

Mr. DIXON. I do.

Mr. STONE. I should like permission of the Senator from Montana to ask the Senator from South Carolina whether any part of the forty-three thousand and odd dollars appropriated in the last agricultural appropriation bill for experiments in tea culture, among other things, has been expended in South Carolina?

Mr. TILLMAN. I can not pretend to tell you, sir. I think they have been trying to experiment in the different States, from Texas all the way east.

Mr. DIXON. Would it hurt the feelings of the Senator from South Carolina, in spite of his protest against the doctrine of paying a bounty, if, notwithstanding his own opposition in the matter, the Senate deliberately ran over the Senator, figuratively speaking, and put 10 cents a pound bounty on tea?

Mr. TILLMAN. I am not here to complain of what the Senate does. If the Senate does not give me anything, I shall not worry. I believe I have presented a case here which is entitled to support in two particulars. It demands that every protectionist in this Chamber shall support this duty, and it demands that every tariff-for-revenue Democrat in this Chamber shall vote for this duty, knowing that we have a deficit.

Mr. DIXON. If we are honest, we are going to have a unanimous vote.

Mr. TILLMAN. A unanimous vote; and I am going to watch the men who vote "nay."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. DIXON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GUGGENHEIM (when his name was called). I have a general pair with the senior Senator from Kentucky, [Mr. PAYNTER], who is unavoidably absent. I shall therefore withhold my vote.

Mr. HUGHES (when his name was called). I am paired with the senior Senator from Maine [Mr. HALE]. I transfer that pair to the junior Senator from Maryland [Mr. SMITH], and vote. I vote "nay."

Mr. RAYNER (when his name was called). I am paired with the junior Senator from Wisconsin [Mr. STEPHENSON]. If he were present, I should vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY], and therefore withhold my vote.

The roll call having been concluded, the result was announced—yeas 18, nays 55, as follows:

YEAS—18.

Bailey	Dick	Heyburn	Smith, Mich.
Bradley	du Pont	Nixon	Tillman
Bulkeley	Elkins	Perkins	Wetmore
Burnham	Frye	Root	
Carter	Gallinger	Scott	

NAYS—55.

Aldrich	Clark, Wyo.	Gore	Oliver
Bacon	Clay	Hughes	Overman
Bankhead	Crawford	Johnson, N. Dak.	Owen
Beveridge	Culberson	Johnston, Ala.	Page
Borah	Cullom	Jones	Penrose
Bourne	Cummins	Kean	Shively
Brandegee	Curtis	La Follette	Simmons
Bristow	Daniel	Lodge	Smith, S. C.
Brown	Davis	Lorimer	Smoot
Burkett	Dillingham	McCumber	Stone
Burrows	Dixon	McLaurin	Sutherland
Burton	Fletcher	Martin	Taylor
Chamberlain	Flint	Nelson	Warner
Clapp	Foster	Newlands	

NOT VOTING—19.

Briggs	Frazier	Money	Smith, Md.
Clarke, Ark.	Gamble	Paynter	Stephenson
Crane	Guggenheim	Piles	Taliaferro
Depew	Hale	Rayner	Warren
Dolliver	McEnery	Richardson	

So Mr. TILLMAN's amendment was rejected.

Mr. SMITH of Michigan. Mr. President, as I understand the rules, we will be privileged to offer amendments to the bill when it goes into the Senate. I desire to give notice of my intention to offer an amendment or a new section of the bill providing for a bounty upon domestic tea, to extend over a period of five years.

Mr. BEVERIDGE. Mr. President, it is not necessary, under the agreement made here, or under the rules of the Senate, for the Senator to reserve an amendment to the bill in the Senate.

Mr. ALDRICH. No; that can be done without such a reservation.

Mr. SMITH of Michigan. I simply wish to give notice that that is my intention.

Mr. BEVERIDGE. An amendment can be offered after the bill gets in the Senate without any reservation. That was discussed here for a whole day.

Mr. SMITH of Michigan. I propose to offer an amendment providing for a bounty on domestic tea extending over a period of five and possibly ten years, the bounty to consist of 10 cents a pound.

Mr. OWEN. Mr. President, before we dispose of the dutiable schedules, I wish to offer an amendment proposing a reduction of 5 per cent per annum on all of the items of all of the schedules, except Schedule H—the liquor schedule—for the next ensuing five years, provided that under the amendment such rate shall not be reduced or fixed below the point at which it would produce an amount equal to the difference in the cost of the production of any such article in the United States and abroad. I propose that the difference in the cost of the production of any such article in the United States and abroad shall be determined upon proper evidence, duly recorded by a nonpartisan commission of five experts, to be appointed by the President of the United States and confirmed by the Senate.

I do not intend to take the time of the Senate to go into an elaborate discussion of this proposition. As I understand, the Democratic party is committed to a gradual reduction of the tariff schedules. As I understand the Republican platform, the Republican party is committed to writing these schedules in the light of the difference in the cost of production at home and abroad. The Senate has not been furnished with any evidence sufficient to show what that difference in the cost of production at home and abroad is. I propose that the difference shall be determined by a nonpartisan board of five experts, to be appointed by the President and confirmed by the Senate. Many of the schedules are recognized to be far above the maximum revenue-producing point, and lowering them would increase the revenue to be derived from such schedules by increasing imports.

I desire a record vote upon the matter; and, without debating it further, I ask a vote of the Senate upon it.

The PRESIDING OFFICER. The amendment proposed by the Senator from Oklahoma will be read by the Secretary for the information of the Senate.

The SECRETARY. On page 193, after line 2, insert:

That the rate fixed on all articles enumerated in section 1 of this act, in schedules A, B, C, D, E, F, G, I, J, K, L, M, N, shall be reduced 5 per cent per annum of the rate fixed in this act, annually on June 30, for each of the next ensuing five fiscal years: *Provided*, That such rate shall not hereunder be reduced or fixed below the point at which it would produce an amount equal to the difference in the cost of the production of any such article in the United States and abroad.

The difference in the cost of the production of any such article in the United States and abroad shall be determined, upon proper evidence duly recorded, by a nonpartisan commission of five experts, to be appointed by the President of the United States and confirmed by the Senate.

Mr. ALDRICH. I move to lay the amendment on the table.

Mr. OWEN. Upon that I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion to lay on the table was agreed to.

Mr. OWEN. I offer an amendment which I will ask the Secretary to report.

The PRESIDING OFFICER. The Secretary will report the amendment offered by the Senator from Oklahoma.

The SECRETARY. On page 193, after line 2, insert:

That the rate fixed on all articles enumerated in section 1 of this act in Schedules A, B, C, D, E, F, G, I, J, K, L, M, and N shall be reduced 5 per cent per annum of the rate fixed in this act, annually on June 30, for each of the next ensuing five fiscal years: *Provided*, That if such graduated reduction shall cause a diminution of the annual revenue from any one or more of the articles enumerated therein, the President is directed to restore the rate on any such article or articles severally at the point at which any such article is found to have had the greatest normal revenue-producing power.

Mr. ALDRICH. I move to lay the amendment on the table.

Mr. OWEN. Upon that I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion to lay on the table was agreed to.

Mr. OWEN. Mr. President, I offer an amendment which I will ask the Secretary to report.

The PRESIDING OFFICER. The Secretary will report the amendment offered by the Senator from Oklahoma.

The SECRETARY. On page 193, after line 2, insert:

471½. That the rate fixed on all articles enumerated in section 1 of this act, in schedules A, B, C, D, E, F, G, I, J, K, L, M, N, shall be reduced 5 per cent per annum of the rate fixed in this act, annually on June 30, for each of the next ensuing five fiscal years: *Provided*, That if such graduated reduction shall cause a diminution of the annual revenue from any one or more of the articles enumerated therein, the President is authorized and directed to restore the rate on any such article or articles severally at the point at which any such article is found to have had the greatest normal revenue-producing power: *And provided further*, That such rate shall not hereunder be reduced or fixed below the point at which it would produce an amount equal to the difference in the cost of the production of any such article in the United States and abroad.

The difference in the cost of the production of any such article in the United States and abroad shall be determined from time to time, upon proper evidence, duly recorded, by a nonpartisan commission of five experts to be appointed by the President and confirmed by the Senate.

Mr. ALDRICH. I move to lay the amendment on the table.

Mr. OWEN. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to lay the proposed amendment on the table.

The motion to lay on the table was agreed to.

Mr. OWEN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will report the amendment proposed by the Senator from Oklahoma.

The SECRETARY. On page 193, after line 2, insert:

That the rate fixed on all articles enumerated in section 1 of this act in Schedules A, B, C, D, E, F, G, I, J, K, L, M, and N shall be reduced 5 per cent per annum of the rate fixed in this act, annually on June 30, for each of the next ensuing five fiscal years.

Mr. ALDRICH. I move to lay the amendment on the table.

Mr. OWEN. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion to lay upon the table was agreed to.

Mr. OWEN. I present the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will report the amendment of the Senator from Oklahoma.

The SECRETARY. In paragraph 637, at the end of line 17, insert the following proviso:

Provided, That no person, firm, association, or corporation doing an interstate business and engaged in the production, manufacture, distribution, or sale of petroleum oil or of any of its products, shall, for the purpose of creating a monopoly or destroying competition in trade, discriminate between different persons, associations, or corporations, or different sections, communities, or cities of the United States, by selling such commodity at a lower rate in one section, community, or city than in another, after making just allowance only for the difference, if any, in the grade, quantity, or quality, and in the actual cost of transportation from the point of production or manufacture.

Mr. ALDRICH. I move to lay the amendment on the table.

Mr. OWEN. On that I demand the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion to lay upon the table was agreed to.

Mr. ALDRICH. Mr. President, I think that completes the consideration of the schedules and paragraphs, and I ask that the amendment of the Senator from Texas [Mr. BAILEY] be laid before the Senate.

The PRESIDING OFFICER. The amendment of the Senator from Texas is pending.

Mr. LODGE. I understand that the amendment of the Senator from Texas is now pending under the agreement.

The PRESIDING OFFICER. That is the understanding of the present occupant of the chair.

Mr. LODGE. It was offered, and is pending.

Mr. BEVERIDGE. The amendment has been offered.

Mr. LODGE. I move to amend the pending amendment by striking out the body of the amendment and inserting the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will report the amendment proposed by the Senator from Massachusetts.

The SECRETARY. As a substitute for the amendment offered by the Senator from Texas insert the following:

SEC. —. That whenever any country, dependency, colony, province, or other political subdivision of government shall pay or bestow, directly or indirectly, any bounty on grant upon the exportation of any article or merchandise from such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

Mr. ALDRICH. I move to amend the substitute offered by the Senator from Massachusetts by adding to it the language which I send to the Secretary's desk.

The PRESIDING OFFICER. The Secretary will report the amendment to the amendment proposed by the Senator from Rhode Island.

The SECRETARY. It is proposed to add to the amendment of the Senator from Massachusetts the following:

That every corporation, joint-stock company or association, organized for profit and having a capital stock represented by shares, and every insurance company, now or hereafter organized under the laws of the United States or of any State or Territory of the United States or under the acts of Congress applicable to Alaska or the District of Columbia, or organized under the laws of any foreign country and engaged in business in any State or Territory of the United States or in Alaska or in the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint-stock company or association, or insurance company, equivalent to 2 per cent upon the entire net income over and above $5,000 received by it from all sources during such year, exclusive of amounts received by it as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax hereby imposed, or if organized under the laws of any foreign country, upon the amount of net income over and above $5,000 received by it from business transacted and capital invested within the United States and its Territories, Alaska, and the District of Columbia during such year, exclusive of amounts so received by it as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies subject to the tax hereby imposed.

Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company from all sources, (first) all the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums required by law to be carried to premium reserve fund; (third) interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint-stock company or association, or insurance company, outstanding at the close of the year; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof; (fifth) all amounts received by it within the year as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax hereby imposed: *Provided*, That in the case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, such net income shall be ascertained by deducting from the gross amount of its income from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia, (first) all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States and its Territories, Alaska, and the District of Columbia; (second) all losses actually sustained within the year in business conducted by it within the United States or its Territories, Alaska, or the District of Columbia not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums required by law to be carried to premium reserve fund; (third) interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness, not exceeding the proportion of its paid-up capital stock outstanding at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia bears to the gross amount of its income derived from all sources within and without the United States; (fourth) the sums paid by it within the year for taxes imposed under

the authority of the United States or of any State or Territory thereof; (fifth) all amounts received by it within the year as dividends upon stock of other corporations, joint-stock companies or associations, and insurance companies, subject to the tax hereby imposed.

Third. That there shall be deducted from the amount of the net income of each of such corporations, joint-stock companies or associations, or insurance companies, ascertained as provided in the foregoing paragraphs of this section, the sum of $5,000, and said tax shall be computed upon the remainder of said net income of such corporation, joint-stock company or association, or insurance company for the year ending December 31, 1909, and for each year thereafter; and on or before the 1st day of March, 1910, and the 1st day of March in each year thereafter, a true and accurate return under oath or affirmation of its president, vice-president, or other principal officer, and its teasurer or assistant treasurer, shall be made by each of the corporations, joint-stock companies or associations, and insurance companies, subject to the tax imposed by this section, to the collector of internal revenue for the district in which such corporation, joint-stock company or association, or insurance company has its principal place of business, or, in the case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, in the place where its principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth, (first) the total amount of the paid-up capital stock of such corporation, joint-stock company or association, or insurance company, outstanding at the close of the year; (second) the total amount of the bonded and other indebtedness of such corporation, joint-stock company or association, or insurance company at the close of the year; (third) the gross amount of the income of such corporation, joint-stock company or association, or insurance company received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia; (fourth) the amount received by such corporation, joint-stock company or association, or insurance company, within the year by way of dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by this section; (fifth) the total amount of all the ordinary and necessary expenses actually paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company, within the year, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States and its Territories, Alaska, and the District of Columbia; (sixth) the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies the sums required by law to be carried to premium reserve fund, and in the case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States or its Territories, Alaska, and the District of Columbia, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies the sums required by law to be carried to premium reserve fund; (seventh) the amount of interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint-stock company or association, or insurance company outstanding at the close of the year, or in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness, to an amount of such bonded and other indebtedness, not exceeding the proportion of its paid-up capital stock outstanding at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia, bears to the gross amount of its income derived from all sources within and without the United States; (eighth) the amount paid by it within the year for taxes imposed under the authority of the United States or any State or Territory thereof; (ninth) the net income of such corporation, joint-stock company or association, or insurance company, after making the deductions in this section authorized. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

Fourth. Whenever evidence shall be produced before the Commissioner of Internal Revenue which in the opinion of the commissioner justifies the belief that the return made by any corporation, joint-stock company or association, or insurance company is incorrect, or whenever any collector shall report to the Commissioner of Internal Revenue that any corporation, joint-stock company or association, or insurance company has failed to make a return as required by law, the Commissioner of Internal Revenue may require from the corporation, joint-stock company or association, or insurance company making such return such further information with reference to its capital, income, losses, and expenditures as he may deem expedient; and the Commissioner of Internal Revenue, for the purpose of ascertaining the correctness of such return or for the purpose of making a return where none has been made, is hereby authorized, by any regularly appointed revenue agent specially designated by him for that purpose, to examine any books and papers bearing upon the matters required to be included in the return of such corporation, joint-stock company or association, or insurance company, and to require the attendance of any officer or employee of such corporation, joint-stock company or association, or insurance company, and to take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons; and the Commissioner of Internal Revenue may also invoke the aid of any court of the United States to require the attendance of such officers or employees and the production of such books and papers. Upon the information so acquired the Commissioner of Internal Revenue may amend any return or make a return where none has been made. All proceedings taken by the Commissioner of Internal Revenue under the provisions of this section shall be subject to the approval of the Secretary of the Treasury.

Fifth. All returns shall be retained by the Commissioner of Internal Revenue, who shall make assessments thereon; and in case of any return made with false or fraudulent intent, he shall add 100 per cent of such tax; and in case of refusal or neglect to make a return or to verify the same as aforesaid, he shall add 50 per cent of such tax. In case of neglect occasioned by the sickness or absence of an officer of such corporation, joint-stock company or association, or insurance company, required to make said return, the collector may allow such further time for making and delivering such return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax originally assessed unless the refusal, neglect, or falsity is discovered after the date for payment of said taxes, in which case the amount so added shall be paid by the delinquent corporation, joint-stock company or association, or insurance company, immediately upon notice given by the collector. All assessments shall be made, and the several corporations, joint-stock companies or associations, or insurance companies, shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 30th day of June, except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as above provided for, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the 30th day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of 5 per cent on the amount of tax unpaid and interest at the rate of 1 per cent per month upon said tax from the time the same becomes due, as a penalty.

Sixth. When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such.

Seventh. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or make known in any manner whatever not provided by law to any person any information obtained by him in the discharge of his official duty, or to divulge or make known in any manner not provided by law any document received, evidence taken, or report made under this section except upon the special direction of the President; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court.

Eighth. That if any of the corporations, joint-stock companies or associations, or insurance companies aforesaid shall refuse or neglect to make a return as above specified on or before the 1st day of March in each successive year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not less than $1,000 and not exceeding $10,000.

That any person authorized by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement, with intent to defeat or evade the assessment required by this section to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

That all laws relating to the collection, remission, and refund of internal-revenue taxes, so far as applicable to and not inconsistent with the provisions of this section, are hereby extended and made applicable to the tax imposed by this section.

Jurisdiction is hereby conferred upon the circuit and district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books, as aforesaid, shall reside, to compel such attendance, production of books, and testimony by appropriate process.

Mr. FLINT. Mr. President, this amendment was offered by the chairman of the Finance Committee after careful consideration by the committee, and is in accordance with the recommendation of the President of the United States in his message of June 16, 1909. Prior to the receipt of the message of the President by the Congress of the United States the Finance Committee had considered the question of obtaining additional revenue. The committee were not altogether united on the question whether it was necessary to have revenue in addition to what would be produced by the pending bill. We considered not only the question of taxing corporations, as recommended by the President, but also the income tax and the tax upon inheritances, as passed by the House of Representatives.

The committee decided that it would be unwise to pass an income-tax amendment in form and substance like those introduced by the Senator from Texas [Mr. BAILEY] and the Senator from Iowa [Mr. CUMMINS]. We felt that, in view of the decision of the Supreme Court of the United States in the Pollock case, it would be indelicate, at least, for the Congress of the United States to pass another measure and ask the Supreme Court to pass upon it, when they had already passed upon the proposition in that case.

We felt in the matter of the inheritance tax that it was unwise to adopt the measure as passed by the House of Representatives, for the reason that a large number of the States of the Union have adopted inheritance taxes as a means of revenue in those States, and that it would be a hardship upon the people of those States to have the additional burden of a national tax on inheritances.

When the President of the United States recommended the passage of a bill for a tax on corporations, on the privilege of doing business, the committee agreed that it was a proper measure to recommend to Congress for additional revenue. As I stated, there were members of the committee who believed that the present bill will produce sufficient revenue, but there are others of the committee—a majority, I believe—who believe it is necessary to have additional revenue.

We were also in favor of having a measure which, in our opinion, would work the least hardship to the people of this country, and we believe the amendment we have recommended will do this.

It provides for a tax of 2 per cent upon the entire net income of all corporations or joint stock companies for profit, represented by shares, or having a capital stock, and insurance companies. It provides for certain deductions from the gross income of the corporation, so as to make definite what the net income will be. It also provides for the taxation of foreign companies doing business in the United States, and a deduction from the gross income of those companies. It also provides a penalty for making false returns. It provides that the penalty for a false return shall be 100 per cent, and a penalty of 50 per cent for failure to make the return. It also provides that in the event of a failure to pay the tax when it becomes due a penalty of 5 per cent shall be added and interest at 1 per cent per month. It provides, in addition to that, that the making of a false return by a corporation shall be punishable by a penalty of not less than $1,000 and not more than $10,000. It provides that the officer who makes the false return shall be punished by fine of not more than $1,000, or by imprisonment for not more than one year, or both.

In addition to the provisions in reference to increasing the income of the Government, there was an additional recommendation by the President of the United States in his message that it would give a certain amount of control of corporations by the National Government, publicity as to the condition of the affairs of corporations, and supervision to a certain extent over those corporations. The bill provides that these returns as made by these corporations to the collector of internal revenue shall be forwarded to the Commissioner of Internal Revenue and become public records. But it provides also that no collector of internal revenue shall have the right to examine the books and affairs of any corporation, unless the Commissioner of Internal Revenue is satisfied that a false return has been made; or, in another instance, where no return has been made, he can then appoint a deputy specially authorized to examine the books and the papers necessary to ascertain the correct amount that should be returned by the corporation, and obtain knowledge sufficient to make a return where no return has been made. By reason of these various provisions in the measure the public will be advised of the condition of the affairs of corporations throughout the country, and at the same time the fear of many people that these internal-revenue agents will be prying into the affairs of corporations is protected, as no investigation of their affairs can be done except by an officer specially authorized for that purpose.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from New Hampshire?

Mr. FLINT. Certainly.

Mr. GALLINGER. If I do not disturb the Senator, I have had two or three letters of complaints about this proposed law, the complaint largely being based upon the assumption that there was to be an army of agents and inspectors sent out by the Government to pry into the affairs of these corporations. I infer from what the Senator says that that has been very carefully guarded, and that there need be no apprehension on that point.

Mr. FLINT. The Senator is correct. The amendment limits the right of investigation to an officer specially authorized for that purpose and does not permit revenue agents to pry into the affairs of a corporation out of mere curiosity.

Mr. GALLINGER. Or to make a record.

Mr. FLINT. And such investigations can only be made of the affairs of that corporation as are necessary to make this return.

The committee has no pride of opinion as to the form of this measure, for the reason that it is as drawn by the Attorney-General of the United States after conference with the President and with the junior Senator from New York [Mr. ROOT]. After the bill had been prepared, it was then sent to the committee and the committee made certain amendments and changes.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Nebraska?

Mr. FLINT. I yield.

Mr. BURKETT. I did not want to interrupt the Senator until he got through with his answer, but I wish to ask him a question in connection with these insurance companies. Does it also include the fraternal beneficiary companies? We have a great many fraternal beneficiary societies not organized for profit. They pay nothing except a salary here and there for those who conduct the organization. As I have looked over the bill, this would include a tax on them. I ask the Senator if that is correct or if there has been any consideration of that phase of the question?

Mr. FLINT. I desire to say that the provision the Senator from Nebraska refers to has also been carefully considered by the committee, and the committee is of the opinion that none of those organizations would be taxed under the provisions of the bill. My attention was called to-day to the matter of the organizations of the Brotherhood of Locomotive Engineers, the Railway Conductors' Association, the Railway Mail Association, and the Trainmen's Association, and numerous organizations of that kind in addition to the organizations the Senator refers to, like the Odd Fellows, the Royal Arcanum, and organizations of that kind. The committee is of opinion that they are not included within the provisions of this bill, and it does not intend to have them included.

Mr. McCUMBER. Will the Senator allow me to make a suggestion right there?

Mr. FLINT. Certainly.

Mr. McCUMBER. The bill applies only to those organizations having a capital stock. None of the corporations the Senator from Nebraska is speaking of have a capital stock.

Mr. BURKETT. I will say that as I read it through I rather thought that they were protected, but I have just had two or three telegrams from lawyers representing some of these fraternal organizations who have a little apprehension the other way. That is why I wish now to have the opinion of the committee, because I expect to confer more with them with a view perhaps, if the bill does not protect them, of offering an amendment.

Mr. FLINT. I can say to the Senator that we intend to exclude those organizations.

Mr. BURKETT. I understood that that was the intention, and that is the reason why I ask the question now.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Iowa?

Mr. FLINT. Certainly.

Mr. CUMMINS. I do not want any erroneous impression to get abroad, and an error might be inferred from the suggestion of the Senator from North Dakota [Mr. McCUMBER]. The bill covers all insurance companies.

Mr. FLINT. The Senator is correct in that.

Mr. CUMMINS. Whether they have capital stock or not.

Mr. FLINT. The Senator is correct.

Mr. CUMMINS. And whether a particular organization is an insurance company is to be decided by the laws of the State in which the company is organized.

Mr. FLINT. I take it the Senator is correct.

Mr. CUMMINS. One of the companies mentioned by the Senator from Nebraska in Iowa would be and is an insurance company.

Mr. FLINT. As far as the provisions of this bill are concerned, we are not endeavoring to cover the organizations referred to by the Senator from Nebraska, and his suggestion will have the careful attention of the committee during this debate. I am satisfied in my own mind that they are not within the provisions of the bill.

Mr. BURKETT. I will say to the Senator that I did not mention any particular one.

Mr. FLINT. You did not.

Mr. BURKETT. I took it from the term "organized for profit" that it would exclude the ones to which I referred.

Mr. FLINT. That is true. If the Senator will look at the bill, he will see that it refers to insurance companies. It says insurance companies in the bill; and the question in my mind, and, I think, in the mind of the Senator, is as to whether the organizations such as he refers to are insurance companies. In my opinion they are not. The insurance is a mere incident to the purpose of the organization.

Mr. BURKETT. Of course I had in mind the purely beneficiary organizations, the Ancient Order of United Workmen, and others. It does not include any of those, I understand, and it is intended to cover them in the provisions of this tax. I wanted to get the Senator's opinion because I want to confer more with these attorneys; and if that is not clear I want to offer an amendment later on.

Mr. BULKELEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Connecticut?

Mr. FLINT. I do.

Mr. BULKELEY. I should like to ask the Senator if the provision in regard to insurance companies he is now explaining, as not affecting organizations of a certain character, how it affects other and very much larger organizations that have

no capital stock whatever? The largest insurance corporations in the country are corporations without any capital stock whatever.

Mr. FLINT. We intend to include those within the provisions of the bill. The great insurance companies in New York and throughout the Union that have accumulated these funds, in our opinion, should pay the tax.

Mr. BULKELEY. Where do you draw the line?

Mr. FLINT. We draw the line between insurance companies and organizations, such as were referred to by the Senator from Nebraska, and organizations such as the Railway Trainmen and like organizations, where the insurance is a mere incident to the other part of their work, which is fraternal and charitable.

Mr. BULKELEY. Does it not include the greater part? I wish to ask the Senator another question. The Senator stated, I think, that the committee abandoned the idea of an inheritance tax for the reason that that subject was attended to largely by the States, and that the inheritance tax had been adopted by the States generally as a source of income for the State. Did I understand the Senator correctly?

Mr. FLINT. The Senator understood me correctly.

Mr. BULKELEY. Did the committee make any investigation into the question as to how the States were taxing these corporations, particularly insurance corporations, for the sake of doing business in the State?

Mr. FLINT. We have.

Mr. BULKELEY. How did it compare, if you made the investigation, with the inheritance tax?

Mr. FLINT. There is no way of comparing it. As a matter of fact the insurance companies that are doing business in States other than the State in which they are incorporated are required to pay taxes. In some States it appears to be very high and in some reasonable.

Mr. BULKELEY. Is the Senator aware that the insurance corporations in the United States are taxed in every State in which they do business?

Mr. FLINT. I am.

Mr. BULKELEY. So the same argument would not apply to insurance companies which would apply to an inheritance tax. They are taxed by the States in which they do business very much higher than any inheritance tax which has been imposed.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Utah?

Mr. FLINT. I do.

Mr. SMOOT. In answer to the Senator from Connecticut, I desire to call his attention to the bill, and to the wording as found in line 3, page 1, where it says "and every insurance company now or hereafter organized." That, of course, would take in all insurance companies, whether they have capital stock or whether they have not capital stock, but I can not see how it is going to apply to any company that was not organized as an insurance company, as the one mentioned by the Senator from Iowa. The fraternal organization that he speaks of was not organized as an insurance company, as I take it, from his own statement.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Iowa?

Mr. FLINT. I do.

Mr. CUMMINS. The insurance company is well known in the law. Whether a particular company is an insurance company depends upon the business it does. If it carries on the business of insuring either lives or property, or against accident, it is an insurance company, if it be an incorporation, and the laws of every State determine for themselves what are and what are not insurance companies. The Congress of the United States can not determine what are insurance companies, inasmuch as——

Mr. FLINT. We are not endeavoring to do that.

Mr. CUMMINS. Inasmuch as these corporations are organized under State laws. I will put you an instance. We have in our State a very large company, known as the "Traveling Men's Accident Insurance Company." No one belongs to it but traveling men. It is a very large concern, and it accumulates in the course of a year a very large amount of money. It is, however, an insurance company under the laws of our State. I could mention a hundred in our State alone, without any capital stock, that are as purely mutual and fraternal as the Order of Railway Conductors or the Modern Woodmen. You will find when we have gone into this subject that the appellation "insurance companies" will cover a very great number of organizations engaged in this business.

Mr. FLINT. Mr. President, I desire to say to the Senator from Iowa he will find the committee in this as in all other matters that have been before the Senate in connection with this bill ready and willing to receive suggestions, our endeavor being to have a bill that will meet with the approval of the people of the country.

Mr. CUMMINS. I have not made the suggestion with any idea of offering an amendment. I think the bill is quite as good in that respect as it is in any other.

Mr. BULKELEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Connecticut?

Mr. FLINT. Certainly.

Mr. BULKELEY. I wish to ask a question, with a view of offering an amendment at some period in the consideration of the bill. I wish to get the theory upon which the committee had prepared the bill, especially in regard to insurance corporations, which they seem to have singled out from all the other corporations of the country and put into a class by themselves. I do not understand the reason. Certain of the great insurance companies of the United States, the largest ones, have never had any capital stock. They are not organized for profit, and the savings made in those corporations are returned to their policy holders. The committee seem to have singled out a body of that class by themselves. The railroads are in a class by themselves. The insurance company corporations embrace large and very prosperous institutions all over the land and of great character. They are all chartered and organized to do business under the laws of some State. They are taxed, so far as taxation goes, and that is made an excuse by this committee for dropping any form of tax other than a corporation tax. They are taxed in every State not on their profits, but on their gross receipts received in that State. It is not confined to the life-insurance companies. The fire-insurance companies are in the same condition. That seems to be the only reason why these companies are picked out.

Mr. BEVERIDGE. May I ask the Senator a question for information at this point? Is it not true that these companies in the States are not only taxed upon their gross receipts, but in many instances pay what is called a "privilege" tax and are subject to other forms of taxation?

Mr. BULKELEY. In the course of this discussion I will try to inform the Senate on those points. I will say in answer to the Senator's question that in almost every State of the Union, the whole forty-six, life, fire, and other insurance organizations are taxed on their gross premiums, and they are not only taxed in that way, but they are taxed for the support of the insurance department of the State. They are required to pay a license for agents. They are required in many parts of the country to have licenses in every city in which they do business, in addition to the state taxes they pay.

I do not know anybody that has had a chance to talk with the Finance Committee, when a great measure of this character was before it and before it was reported to the Senate; but, as I understand it, nobody has had the opportunity. This measure, according to the Senator from California, was sent to the Finance Committee from other sources. It has not been formed in the Finance Committee after any hearing from anybody that could properly be interested and then sent here to the Senate.

Mr. FLINT. It would be impossible for this committee to define the line between the various corporations the Senator refers to, and we have not attempted to do that in this amendment.

I desire further to say that the Senator is mistaken when he states that there was no consideration given by the committee. On the contrary, there was great consideration given to this subject and it was carefully investigated. We realized that there were problems to meet, just as the Senator from Connecticut pointed out, and we endeavored to meet them in this bill.

There is one more word I want to say in reference to this bill.

Mr. FOSTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Louisiana?

Mr. FLINT. I do.

Mr. FOSTER. Is it the purpose to include within the operations of this measure homestead associations?

Mr. FLINT. What does the Senator mean by homestead associations?

Mr. FOSTER. I thought the Senator in charge pretty well understood what homestead associations are. The President seems to understand what they are, as I understand in his message he recommended that homestead associations be exempted, I refer to building and loan associations, sometimes called "homestead associations."

Mr. ALDRICH. I do not think they are included.

Mr. FLINT. No; I do not think they are included.

Mr. FOSTER. I used the word "homestead." It is a building and loan association. Is it the purpose of the committee——

Mr. DICK. We can not hear the Senator.

Mr. FOSTER. I ask the Senator in charge of the bill——

Mr. CLAPP. Will the Senator pardon me a moment? I do not know just what the form of a building and loan association is, but I know that in our part of the country a building and loan association issues its stock. It has its stockholders outside of those, perhaps, who may borrow. I should like to have the Senator or some one else point out what there is in this bill that will exempt such an association?

Mr. FLINT. I do not think they are corporations for profit.

Mr. CLAPP. Where they issue stock and take dividends on stock?

Mr. FLINT. They simply distribute the earnings among the members.

Mr. CLAPP. That may be, but the Senator said they were not included. I am not arguing whether they ought to be.

Mr. ALDRICH. We did not think they were included, because we thought that they were not corporations for profit. If they are corporations for profit, they ought to pay a tax as other corporations.

Mr. CUMMINS. I would suggest at least one State where building and loan associations are organized for profit.

Mr. FLINT. Then they ought to pay.

Mr. CUMMINS. They are organized under our chapter relating to associations for profit, and in no case can they exist without capital stock, because it is essential to their method of doing business.

Mr. FLINT. Then they ought to pay the tax, if they are organized for profit and have a capital stock.

Mr. CUMMINS. The building and loan association issues stock. The money is paid into it. It loans that money. It makes a profit and divides it among its stockholders. In that way it makes it profitable to belong to a building and loan association. I do not know how it is in other States, but in my own State the building and loan association is a corporation for pecuniary profit, having shares represented by capital stock.

Mr. DICK. Mr. President——

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Ohio?

Mr. FLINT. Certainly.

Mr. DICK. The courts have repeatedly held that building and loan associations are corporations for profit, and in my judgment, unless by some express provision in this bill they are exempted, they will come under its provisions.

Mr. FLINT. If they are corporations for profit, they certainly will wherever it has been held that they are corporations for profit.

Mr. BULKELEY. I should like to ask the Senator if in the wording of the bill it does not provide that insurance companies shall be included, whether organized for profit or not?

Mr. FLINT. It does.

Mr. BULKELEY. A purely mutual insurance company, that is organized practically on the lines of the fraternal organizations, no matter how little it may be, it is intended to include under the provisions of the bill.

Mr. FLINT. Yes, sir.

Mr. BULKELEY. Where do you draw the line between what are known as "fraternal associations," if they have a charter? They are all incorporated under some state law.

Mr. CLAPP. In response to the criticism that these building and loan associations organized for profit, and they undoubtedly are, should be taxed, I understood the Senator to say that the bill was drawn by reason of the recommendations of the President, in which he expressly suggested that they should be exempted.

Mr. FLINT. I think the President's present recommendation contemplated building and loan associations not organized for profit; and from what I know of the building and loan associations they are not corporations for profit. I do not believe that a corporation that divides its earnings among its members is a corporation for profit.

Mr. BULKELEY. It need not be an insurance company for profit, under the wording of the act.

Mr. FLINT. I so stated to the Senator.

Mr. BULKELEY. But if it is an insurance company, it will have to pay this tax, whether it is organized for profit or not.

Mr. FLINT. I so stated.

Mr. BULKELEY. I am much obliged to the Senator. I only wanted to understand it.

Mr. NELSON. Mr. President, will the Senator yield to me?

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Minnesota?

Mr. FLINT. I do.

Mr. NELSON. Mr. President, I only want to say, as to such building associations, that I do not think Senators need have any scruples about including them. I had occasion some years ago to investigate their methods in this District, and I found that in the aggregate they charged a much higher rate of interest than other loan institutions, so that the poor people who deal with them have to pay pretty big prices. In fact, we had a case in this District where one company had been exacting usurious interest under the guise of being a loan and building association.

In respect to mutual insurance companies, which seem to trouble some Senators here, there is a class of mutual insurance companies that are genuine and turn their profits over to their members; then there is another class, like the big insurance companies in New York, who call themselves "mutual insurance companies," who absorb enormous funds and use them for all purposes. Does anybody want such companies as those to be immune?

Mr. FLINT. Mr. President, the Senator from Minnesota [Mr. NELSON], as usual, is very clear in his statement as to this matter. A great many of us know that such companies exist. In my own State I know the condition is just as the Senator from Minnesota has stated it—that many of these building and loan associations are so conducted that the earnings remain in the hands of a few, and they charge a greater rate of interest on the installment plan than would be charged the borrower if he went to a savings bank. Many a poor man has lost his home because of their manipulations. I have no desire to save those associations from the provisions of this bill. There are associations that are purely mutual, and, if they are not organized for profit, they will not come within the provisions of this amendment.

Mr. GALLINGER. Mr. President, just a word.

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from New Hampshire?

Mr. FLINT. Certainly.

Mr. GALLINGER. The Senator from Minnesota has alluded to a building and loan association in this District which was not doing business on proper principles. That was true of one association; but we have legislated since then, so that I think there is going to be no trouble of that kind in the future.

I simply want to say that, from my knowledge, the building and loan associations in my own section of the country, as well as those in the District of Columbia, are doing a very great work for the laboring people and the mechanics of the country in enabling them to get homes. While I am not going to offer an opinion as to whether or not such associations ought to be exempt, I want simply to testify, so far as my knowledge goes, to their integrity and to the fact that they are conducting business without the purpose of profit or gain to themselves, but for the benefit of the men who take stock in their organizations.

Mr. CRAWFORD. Mr. President——

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from South Dakota?

Mr. FLINT. I do.

Mr. CRAWFORD. Upon the question of building and loan associations, my experience has been very largely the same as that just expressed by the Senator from Minnesota [Mr. NELSON]. The building and loan associations in the State of South Dakota have gone to the legislature more than once, and, under a plea that they were home-building institutions, have succeeded in hoodwinking the legislature into giving them privileges exempting them from state taxation. Instances of the grossest frauds that have ever been committed in my State are the instances of two predatory institutions, calling themselves "building and loan associations," which, under the guise of loaning to a poor man money to acquire his home by paying installments, extorted from him usurious interest, and got him entangled deeper and deeper, until, after a series of eight or ten years, during which they had exacted these rates and payments, they involved him so hopelessly that he had to lose it all. Then, at the end of it, they went into pretended failure, in order to clean up and rob the treasury of what was left. I hope that institutions of that kind are not going to be exempted from the operation of this law.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Idaho?

Mr. FLINT. I do.

Mr. BORAH. I want to ask the Senator from South Dakota if he thinks we can correct that evil under this bill by the publicity clause?

Mr. CRAWFORD. I do not think we can remove that evil by extending the exemption to that class of institutions in this bill.

Mr. BORAH. But the difficulty is that you are visiting punishment upon the just and the unjust, as you are doing throughout this entire bill.

Mr. CRAWFORD. The answer to that, so far as building and loan associations are concerned, is that it turns upon whether they are corporations for profit. If they are, why should they have any privilege that other corporations for profit do not have?

Mr. SCOTT. I should like to ask the Senator a question for information.

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from West Virginia?

Mr. FLINT. I do.

Mr. SCOTT. I understand that the amendment provides for the exemption of national banks and savings banks.

Mr. FLINT. Oh, no.

Mr. ALDRICH. There is nothing of that kind in it.

Mr. SCOTT. Banks are not exempted at all?

Mr. ALDRICH. Not at all.

Mr. SCOTT. And no banking institutions?

Mr. ALDRICH. No banking institutions organized for profit.

Mr. SCOTT. Then, I would ask the Senator from California, suppose there was a corporation on one side of the street in business, and on the other side of the street a firm in the same business, would there be any distinction? Could you tax the firm on its profits?

Mr. FLINT. No.

Mr. SCOTT. Although they might be in the same business?

Mr. FLINT. I have just one word more to say in reference to this amendment, and that is as to the income which will be derived from it. I have devoted considerable time in endeavoring to obtain an estimate of the revenue which would be produced from the corporation-tax provision. I have conferred with the Interstate Commerce Commission, the Comptroller of the Treasury, and with the Department of Commerce and Labor, and it is absolutely impossible from the data they have to make any reliable estimate of the amount of revenue that will be derived from the amendment, but I am satisfied that the estimate made by the President of the United States in his message, of $25,000,000, is altogether too low. In my opinion, the revenue that will be derived from it will be from forty to fifty million dollars.

Mr. KEAN. I think the Senator had better revise that and make it $100,000,000.

Mr. FLINT. The question is one that should be carefully considered by the Senate, even by those who are of the opinion that the bill now before the Senate will not produce sufficient revenue. This amendment, if adopted, will produce, in my opinion, an additional revenue of from forty to fifty million dollars.

Mr. BORAH. I should like to ask the Senator a question before he sits down.

The VICE-PRESIDENT. Does the Senator from California yield to the Senator from Idaho?

Mr. FLINT. I do.

Mr. BORAH. For the purpose of information, I should like to know the Senator's view as to what is taxed under this amendment—what it is that we lay this tax upon?

Mr. FLINT. The privilege of doing business.

Mr. BORAH. The privilege of doing business as a corporation, or the privilege of doing business?

Mr. FLINT. The privilege of doing business.

Mr. BORAH. As a corporation, or simply doing business?

Mr. FLINT. Simply doing business.

Mr. BORAH. That is all.

Mr. DIXON. Mr. President, a little over three months ago in this Senate Chamber the President of the United States, in delivering his inaugural address and outlining the policies of the incoming administration, said to the Congress that, in the event the proposed revision of the revenue laws did not yield a sufficient revenue, in his opinion the most plausible source of additional taxation was an inheritance tax. The Ways and Means Committee of the House followed the President's suggestion by a unanimous vote, and incorporated an inheritance-tax provision in this bill. It passed the House of Representatives with not a voice raised in protest. It came to the Finance Committee of the Senate, and, after due deliberation, they struck it from the bill; and in all of the debate over the income tax, the inheritance tax, and the corporation tax you have hardly heard a voice raised in defense of the inheritance tax, which, I think, all of us will agree is the most equitable of all. Before the debate drifts further into the income tax and the corporation tax, I want to address my remarks to the Senate this afternoon especially toward the inheritance-tax feature that was reported by the House committee, passed by the House of Representatives, and eliminated by the Senate Committee on Finance.

Mr. President, I have taken but little of the time of the Senate during the discussion of the tariff schedules, for it has been patent to me from the beginning of this debate that the differences of opinion about which a war of words has raged here during the past few weeks have mostly been concerning only the *degree* of the duty to be levied. It has been a debate over *percentages* rather than one concerning *principles*. My belief is that an honest expression of opinion of the individual Members of both Houses of Congress, whether Republican or Democrat, would in nearly every single individual case result in a confession of faith—that the duty to be fixed in the various schedules of this bill should measure the difference of cost of production of the article in question in the United States as against the cost of production of the same article in a foreign country. And it is my belief that the Finance Committee have, in good faith, attempted to apply that rule in fixing the duties under the various schedules of this bill.

The tariff schedules having been completed, we are now confronted with an entirely new proposition—one about which men may and do differ, on principle, with deep and vehement earnestness.

To my mind the action which this Congress shall take relative to the disposition of the income, the inheritance, and the corporation tax propositions will influence political parties and their individual membership in the immediate future to a far greater degree than we at this time anticipate. My own judgment is that the final results of the action of this extra session of the Sixty-first Congress may result in greater disturbance of the personnel of the present Congress than has been usual in the last few years.

We know, and the country knows, that while the percentages fixed in this bill have not met with the full approval of eight or ten Senators on this side of the Chamber, probably at least as large a number of Democratic Senators on the other side of the Chamber, to put it mildly, have not been at all disturbed by the rates of duty fixed in the bill that particularly affected the industries in that particular portion of the country that they represent.

THE PRESENT REVENUE NOT SUFFICIENT.

Notwithstanding the somewhat cheerful and optimistic view of the chairman of the Finance Committee concerning the revenue that the bill will probably produce, in common with many other Members of this body I am thoroughly of the belief that unless the tariff and internal revenues are largely supplemented we will not have during the next few years a revenue sufficient to meet the rapidly growing demands of the Federal Government, economically administered.

The experience of a hundred years teaches us that the expenditures of the municipal, state, and federal governments are continually on the increase and, with thriving, growing communities, States, and Nation, the expenditures will certainly largely increase in the years that lie before us.

It is not a secret that in preparing the estimates for the appropriation bills for the coming session of Congress the orders to each department chief here in Washington is to cut the estimates to the very bone. This can be done for one appropriation bill, and one only. Except in rare and minor instances, it can not be done and important governmental enterprises not suffer serious embarrassment.

We have not yet forgotten the hue and cry raised by the Democratic party about the "billion-dollar Congress" in the campaign of 1890, and the charges of "Republican extravagance," and how the next Congress, under Democratic leadership, appropriated more than $50,000,000 in excess of its Republican predecessors.

In addition to the ordinary expenses of the past years, Congress is now confronted with the task of raising $300,000,000 for the completion of the Panama Canal; not less than five hundred million will be required to carry out the proposed deep-waterway programme, to dig the ship canal from Chicago to the Gulf, and extend the cross arm of real inland navigation from Pittsburg to Sioux City. The inland waterway from New York southward, along the Atlantic coast line, and from New Orleans to Galveston, along the Gulf coast, will require a hundred million more.

If our foreign commerce is ever to be rehabilitated, whether in the form of a ship subsidy for carrying our mails or otherwise, so we can send a letter to a South American port without the humiliation of first sending it to Europe and thence in a foreign mail steamer to South America, not less than ten millions annually must be appropriated from the Federal Treasury.

For years every western Member of Congress has been embarrassed because of the fact that a pitifully insignificant sum is doled out each year for surveying the public lands of the Government instead of a liberal appropriation sufficient to survey the land already occupied by bona fide settlers.

If Congress were to at once provide the public buildings now badly needed in the city of Washington for actually housing the various departments of the Government that now are occupying rented quarters in fire-trap buildings in this city, not less than twenty-five millions would be required.

If business methods were applied by the Government, we could annually expend fifty millions a year in irrigating the vast stretches of arid land in the West instead of limiting the engineers to the use of the mere pittance that now accrues from the sale of public land. With these overwhelming demands confronting us, we are confronted by a not increasing revenue.

Prophecies are always subject to a discount, but it is not unreasonable to suppose that, with the wave of prohibition that has been sweeping over the country, the receipts from internal revenue will largely decrease—at best, will not yield the same proportion of income as it has in the past.

The free importation of 300,000 tons of Philippine sugar and the rapidly increasing production of beet sugar in the West will, within a few years, largely reduce the amount of money now received from the sugar duty, which is the largest single source of customs revenue.

THREE PROPOSITIONS FOR ADDITIONAL REVENUE.

There are now pending before the Senate three separate propositions for raising additional revenue.

One of the three will undoubtedly become a law within the next thirty days. These are the inheritance tax, the income tax, and the corporation tax.

So that my position may not be misunderstood, I want to say, first, that I shall vote for the corporation-tax amendment as proposed by President Taft in his message, with the full understanding that I believe its chief virtue lies in the publicity feature as applied to large corporations, for I am fearful that the tax that will be imposed by it will, in the end, in many cases at least, be "passed on to the public."

Before casting our vote for or against these three separate measures, I sincerely wish it were possible that the Senators could lay aside their preconceived notions of the merits of the three different methods, and, without regard to past political alliances or party platform declarations or expressed personal allegiance to either of the three proposed measures, approach the subject in a spirit of fair investigation of the merits of each plan, with due regard to the conditions that confront us, and not mere theories.

Seeking only to ascertain the truth, and with no pride of my own opinion, my conclusions are that the inheritance-tax provisions, as passed by the House of Representatives and incorporated in the bill, before its provisions were stricken out by the Senate Finance Committee, met the requirements of the present situation and did so without encountering the objections that have, in good faith, I believe, been urged against both of the other propositions.

In the first place, no question can be raised as to its constitutionality, as the United States Supreme Court, while holding that the former income-tax law was unconstitutional, has already, in the case of Knowlton *v.* Moore (178 U. S., 41, 1900), held that the inheritance-tax provision enacted at the time of the Spanish war was constitutional.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. DIXON. With pleasure.

Mr. BORAH. Is not that the same position we were in when we passed the income-tax law in 1894?

Mr. DIXON. In 1894 the Supreme Court had not passed upon the validity of the inheritance-tax law.

Mr. BORAH. But it had passed upon the validity of the income-tax law.

Mr. DIXON. It had, I think, in a dozen different decisions held that the income-tax law was valid, but, unfortunately, afterwards, by a divided court, it held that it was not.

While it had been my intention, in the event the Senate would not adopt the provision of the House regarding the inheritance tax, to have voted for an income-tax provision in this bill, I always realized fully the uncomfortable situation that would follow a second declaration of its invalidity by the Supreme Court, and I was not unmindful of the embarrassment and full lack of confidence in the public mind in the supreme law tribunal of the Republic should that court, with its personnel largely changed, reverse its own former ruling.

To the most sincere and ardent friends of the income-tax theory—and I am one of those who see a large measure of merit in its provisions—I respectfully and earnestly commend the embarrassment that would follow either a favorable or an unfavorable decision by the Supreme Court.

I yield to no man in my allegiance to the principle that wealth should bear more of the burden of federal expenditures than it does under the present system of federal taxation.

Theoretically at least, in apportioning the burden of taxation for municipal, county, and state purposes, men do contribute in proportion to their wealth.

In federal taxation men do not contribute, even theoretically, in proportion to their wealth.

That such a condition of unequal burden and inequality of contribution is inequitable and unfair no one will deny.

That such a condition of inequality will long continue is an indictment of the intelligence of the American people.

I confess that when the discussion of this matter began of providing additional revenues by some form of taxation outside the tariff duties and the internal-revenue laws, that the theory of a revenue based on incomes appeared to me to be the ideal one.

Accepting as correct the theory of Adam Smith, that "the subjects of every state ought to contribute toward the support of its government as nearly as possible in proportion to their respective abilities," and fortified by the dictum of John Stuart Mill, that "equality of taxation means equality of sacrifice; it means the apportioning the contribution of each person toward the expense of the government so that he shall feel neither more nor less inconvenienced from his share of the payment than every other person experiences from his," it seemed to me that the income tax was theoretically the correct and perfect one.

So far as the theory is concerned, I am of that belief still. But when it comes to applying the theory to actual practice, I am fearful of results.

PERSONAL PROPERTY NOT TAXED.

It is a well-known condition that confronts every community in this country to-day that the tax collector finds and collects the taxes upon property that is tangible and revealed to the eye, but finds it most difficult to reach any property than can be hidden from view.

As an example, not many months ago it came under my personal observation that in a certain county in a certain State the returns to the Comptroller of the Treasury by the national banks in that county showed cash deposits by its taxpayers of about $4,000,000. The cash returned by the taxpayers of that county for assessment for taxes that same month showed about $25,000, and most of that belonging to estates of dead men then in the probate court.

The assessment of intangible personal property for taxation not in plain view of the assessor has become a farce in this country. When the person to be taxed makes his return to the assessor, whether under oath or otherwise, the general results are the same in actual experience.

I understand that the government of the city of New York costs annually about $125,000,000; that of this sum only about two and one-half millions are collected from personal property in that great city, where its wealth in personal property is measured by billions of dollars.

A commission on taxation appointed by the mayor of New York recently made public its report on personal-property taxation in that city, and said:

> So far as the personal-property tax attempts to reach intangible forms of wealth, its administration is so comical as to have become a byword. Its practice has come to be merely a requisition by the board of assesssors upon leading citizens for such donations as the assessors think should be made, and is paid as assessed, or reduced, according as the citizen agrees. With the estimate of the assessor, such a method of collecting revenue would be a serious menace to democratic institutions were it not so generally recognized as a howling farce.

The Boston Post of July 27, 1906, in discussing this question, said:

> It is notorious that the greater part of taxable personal property escapes the payment of contribution to the support of the Government during the lifetime of its owners. It is considered no crime to hide such property from the view of the assessors. The practice is well-nigh universal, contrary though it is to the principles of morality. The only point at which the community can lay hands upon such concealed property and levy the contribution which it ought to have paid is when it is exposed to view in the probate court. In New York it was recently shown that estates in probate aggregating $247,000,000 had stood for only $17,000,000 for purposes of taxation during the life of their deceased owners.

What is true in New York City regarding the assessment of personal property where the person taxed makes his own returns, as he must do, of the amount of personal property owned by him, is equally true in all other parts of the United States.

Will not the officers of the United States Government probably confront similar conditions in attempting to enforce an income tax?

NEW YORK TAX COMMISSION.

In 1906 the legislature of the State of New York authorized the appointment of a special tax commission to investigate and consider the various schemes of taxation at that time existing

in that State, and to report upon a plan for a modern, scientific, and equitable scheme for the levying and assessment of taxes for the support of the state government. A nonpartisan commission of 15 learned and distinguished men of that State was named for the purpose. They organized with Hon. Warner Miller, a former Senator of the United States, as its chairman.

After months of intelligent and painstaking research, the commission submitted most exhaustive reports to the legislature of New York.

From that report I quote some of the findings of fact, which are of the greatest value and interest in the discussion of the three measures now pending before this Senate; and I call the especial attention of Senators to the findings of fact I am about to read:

First. That the assessed value of all personal property is (in New York State) approximately $800,000,000.

Second. That the value of all personal property owned by citizens of this State is not less than $25,000,000,000—

In other words, that personal property in New York State is assessed about at the ratio of 1 to 30—

Third. That the richer a person grows, the less he pays in relation to his property or income.

Fourth. Experience has shown that under the present system personal property practically escapes taxation for either local or state purposes. As proof of this, the following table showing the amount assessed against well-known multimillionaires for personal property is as follows, for the year 1907, in the city of New York—

These are the actual results in New York City—

August Belmont	$100,000

Mr. BEVERIDGE. One hundred thousand dollars on his what?

Mr. DIXON. On his personal property in the year 1907. That is the assessment.

O. H. P. Belmont	$200,000
Cornelius Bliss	100,000
Andrew Carnegie	5,000,000
Henry Clews	100,000
William E. Corey	100,000
Morris K. Jessup	100,000
John W. Gates	250,000
Frank J. Gould	50,000
John D. Rockefeller	2,500,000
John D. Rockefeller, jr	50,000
William Rockefeller	300,000
H. H. Rogers	300,000
Russell Sage	2,000,000
Alfred G. Vanderbilt	250,000
Cornelius Vanderbilt	150,000
George W. Vanderbilt	50,000
William K. Vanderbilt	100,000
John Jacob Astor	300,000

That is the assessment roll in New York City for the year 1907.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Indiana?

Mr. DIXON. Certainly.

Mr. BEVERIDGE. Are the amounts the Senator has just read the amount of the tax they pay, or the amount of property on which they are taxed?

Mr. DIXON. The amount of personal property on which these men are assessed.

Mr. CRAWFORD. For what year?

Mr. DIXON. The year 1907.

Mr. SCOTT. Mr. President, I should like to ask a question of the Senator from Montana.

The VICE-PRESIDENT. Does the Senator yield?

Mr. DIXON. Certainly.

Mr. SCOTT. Under the laws of New York, would they have to count all the personal property in New York?

Mr. DIXON. So this commission says.

Mr. SCOTT. How about property in other States?

Mr. DIXON. Intangible personal property follows the situs of its owner.

Mr. SCOTT. In the State proper?

Mr. DIXON. Yes.

Mr. BAILEY. I should like to ask the Senator from Montana whether or not there is any provision in the New York law exempting the holder of railroad or other corporation securities from the payment of the tax where the corporation itself has paid a tax?

Mr. DIXON. To be frank, I can not answer that.

Mr. BAILEY. That would be the only possible explanation of what has been read, for it is inconceivable that public officials would tolerate that kind of an evasion unless there were something of the kind.

Will the Senator permit me to inquire of the Senator from New York [Mr. ROOT] whether or not the law of his State provides for exemption in the case of stockholders in a corporation which itself pays a tax?

Mr. ROOT. Mr. President, the Senator from Texas is correct in the impression he has expressed. The personal-tax law of New York exempts from taxation that part of the personal property of persons subjected to the tax which consists of stock in corporations that are themselves supposed to pay taxes—that is, not merely the stock of the domestic corporations of New York, but the stock of all corporations, in whatever State they may be organized. So that all that great part of the personal wealth of residents of New York which consists in the ownership of corporate stock is relieved from taxation in New York, and taxes are paid by the corporations, wherever they may be.

Mr. BAILEY. Then I should like to ask the Senator from New York, with the permission of the Senator from Montana, what provision the law makes with respect to bonds? I take it that a different principle prevails in the taxation of bonds.

Mr. ROOT. Bonds are taxed in the possession of the holder.

Mr. DIXON. I did not understand the Senator from New York. Does he state that bonds are taxed in the possession of the holder?

Mr. ROOT. Corporate bonds are taxed as the property of the holder.

Mr. BEVERIDGE. As his personal property?

Mr. ROOT. As the personal property of the holder. But I think year before last, or the year before that, a law was enacted providing for a registration tax upon bonds secured by mortgage upon real estate, so that upon the payment of that initial tax such bonds are relieved thereafter from the payment of personal taxes, leaving, however, the ordinary corporate bond subject to tax as personal property.

Mr. BAILEY. And that would be true of railroad bonds, I presume. Although they are, of course, secured by a mortgage on the physical property, they are not subject to this registration act, and are taxable in the hands of the holder?

Mr. ROOT. I have never examined that subject particularly; but my understanding is that it does not apply to railroad bonds, even though they are to so great an extent secured upon real estate. But that is only an impression, and I do not wish to state it as anything but an impression.

Mr. BEVERIDGE. Mr. President, I have asked the Senator to let me look at this list, and I find that the list is itself given by the commission.

Mr. DIXON. Yes; it is. It is the commission's report. It is not my list. Before giving this list the commission says experience has shown that under the present systems personal property practically escapes taxation for either local or state purposes.

Mr. BEVERIDGE. The Senator from New York says that of course bonds are taxed there as personal property. But a review of these names will show that utterly aside from the question of holding stocks or bonds in railroads, even if they were excepted, the amount upon which these men have been taxed is a startling and almost unrealizable fraction of their true wealth. I shall not go over the list again, although I think it would be profitable for the Senator to go over it again. There are certain names there that show, from the public knowledge of the vast fortunes they possess, that on their personal property they are paying, as the commission says, practically no tax.

Mr. CLAPP. Mr. President, I should like to ask what good it will do to go over the list again? Under the proposed "corporation tax" we do not tax them, and under an inheritance tax we would not tax them.

Mr. DIXON. Under an inheritance tax we would tax them.

Mr. CLAPP. And unless we are going to have an income tax, I do not see any use in again reading the names to this Senate.

Mr. DIXON. If the Senator from Minnesota will possess his soul in patience, I think I will demonstrate to him that an inheritance-tax law is the only measure proposed here that ever will result in properly taxing the fortunes of these men.

Mr. CUMMINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Iowa?

Mr. DIXON. With pleasure.

Mr. CUMMINS. In the State or city from which I come our taxes are about 2 per cent upon the actual value of the property.

Mr. DIXON. Two per cent?

Mr. CUMMINS. Two per cent upon the actual value of the property upon which the taxes are laid. Does the Senator think it would be a very fair equivalent for an income tax to allow a man to escape those taxes for fifty years?

Mr. CLAPP. That is the point exactly.

Mr. CUMMINS. And then, when he dies, to pay 2 per cent on what he has left?

Mr. DIXON. The Senator from Iowa will realize the fact that unless there is an inheritance tax such a man will escape forever. That is the time when the tax collector does get a chance at him, and we do not propose to limit an inheritance tax to only 2 per cent of the value of the property.

Mr. CUMMINS. Would the Senator be willing to add in the inheritance tax all the tax the man had escaped during his life?

Mr. DIXON. Personally, I should not object to it, and I shall be glad if the Senate will amend the House bill in that regard.

Mr. BAILEY. In that way you would take most of his estate.

Mr. CUMMINS. Something of that sort might be very satisfactory even to the proponents of the income tax.

Mr. BAILEY. If he lived long enough, that would result in taking it all.

Mr. DIXON. And on such estates I would levy such a heavy tax, especially in the case of the collateral heirs, that there would be no question that the State would take its just part of the taxation that had been escaped during life.

I commend to the Members of the Senate the report of the New York tax commission, as containing the most valuable information that I have been able to find in all my research about these various phases of taxation. A minority of 2 members of that commission, out of a total membership of 15, recommended the enactment, by the New York legislature, of a state income-tax law; but in view of the findings of fact above quoted, other members of the commission, believing it would only result in a continuation of the present system of rank inequality in taxation, said:

We therefore conclude that any form of state income tax is at present inadvisable. Some of the undersigned were years ago in favor of such a scheme, but a closer acquaintance with the administrative and economic conditions of American life has forced them to the conclusion that a state income tax would be a failure. The prospect is beautiful in theory, but useless in actual practice.

I quote further from their discussion of the income tax:

We feel that the only result of levying such a direct income tax, resting on the listing of all incomes by the taxpayers, would be, as in the case of a vigorous personal-property tax, to increase, not equality, but perjury and corruption. The law would remain a dead letter, as is the case in most of the American States where the income tax is now imposed, or it would tend to create illicit bargains between the taxpayers and the assessors. * * * The rich experience of the United States shows conclusively that an income tax * * * would be ineffective. Even the national income tax during the civil war was a notorious offender in this respect. The amount of revenue derived from it was ludicrously small; in fact, from careful investigations, it has been shown that in the State of New York during the civil war the federal income tax worked scarcely, if at all, better than the personal-property tax, when its administration became a byword throughout the length and breadth of the land.

Mr. BAILEY. I could hardly be surprised that a commission appointed in a State where such gross frauds are practiced would despair of ever making anyone contribute his due share to the support of the Government. But I rose simply to record my protest against any respectable official body in this country presenting such an indictment against the American people and against the American system of government. To tell us that we should not call upon men to contribute their fair proportion to the support of the Government because they will not obey our call is to indict our system of government as a failure; and I think no valid argument can be made against any tax in this country, except it be against the justice of it. I will never agree that it is a good reason against levying a tax that somebody would perjure himself to evade the payment of it.

Mr. DIXON. With the Senator from Texas, I was astounded at some of the conclusions of the tax commission. They started out apparently to frame an income tax. They frankly say so. It was a nonpartisan commission; five were appointed by Governor Hughes, five by the speaker of the house, and five by the lieutenant-governor—prominent, distinguished, high-grade citizens of New York State, whose names are synonymous with fair dealing and high integrity in private and public life. They argue all through the report that while the income tax is theoretically the beautiful one, they say frankly, after taking into consideration economic, social, and political conditions as now existing, the only way to make the personal-property owner bear his share is through the probate court and an inheritance law.

Mr. BAILEY. That does not fall on him at last. The man who has cheated the Government escapes through the grave, and the burden falls on those who are the beneficiaries of his good will. I thoroughly agree with the Senator from Montana in favor of an inheritance tax, though I would prefer it reserved, as such, to the States. The one man in this world who has no right to complain anywhere or at any time about a tax is the one who is getting something for nothing, and getting it through the agency of the Government, as a man does always when the Government takes from the dead and hands it over to the living, whether under a will or under a statute of distribution; and I have no objection to taxing him. Indeed, I suppose I would tax him somewhat more onerously than the Senator from Montana.

Mr. DIXON. I doubt whether the Senator would.

Mr. BAILEY. If the Senator would go as far as I would, we would go a long way toward eradicating the "posthumous avarice," which Hargrove denounced with such great and just severity in the celebrated case of Peter Thellusson.

Mr. DIXON. If the Senator will kindly listen to the remainder of my argument, I think he and I will be found in absolute accord in the matter of "posthumous avarice."

Mr. BAILEY. I was interested in what I heard. I only want to say that when any official body in this country admits a law is just and then says it can not be enforced because of the greed of the men against whom it operates——

Mr. DIXON. They say there is a more feasible method.

Mr. GALLINGER. I will ask the Senator, if he can, to tell me how many of the States have to-day an income-tax law.

Mr. DIXON. The only ones I personally know of are the States of Massachusetts and North Carolina. I am informed by a Senator on my right that there are four, but I am not acquainted with the fact.

Mr. GALLINGER. I have an impression that the law in Massachusetts——

Mr. BAILEY. Before the Senator from New Hampshire proceeds——

Mr. GALLINGER. Yes.

Mr. BAILEY. The State of South Carolina also has one, I am told.

Mr. GALLINGER. I have an impression that the law in Massachusetts has fallen into, to use a well-known phrase, "innocuous desuetude;" that no effort whatever is made to enforce it, and no returns are made under it. That is my impression.

One other matter. We have in our State a collateral inheritance tax which is producing a very fine revenue to the State; and if it were not for that, I would feel that that was the best possible mode of federal taxation, if it did not interfere to too great an extent with the revenue the State derives from that form of taxation.

One other point. I am not going to apologize for men who do not make returns on securities that they hold, and yet there is a reason for it founded in human nature. In my own little city the rate of taxation is either 2.20 or 2.30—I have forgotten which—and bonds are held by our people that pay 3½ or 4 per cent. If those bonds were returned, the owners would have from 1 to 1½ per cent return on the investment that they had made, and I apprehend that that circumstance induces many of them to persuade their consciences that it is not expected that they will make the return, and, to a very large extent, they do not make the return.

It is no excuse, but it is a pretty common practice. I do not know how a national income-tax law might work, whether it would be evaded, as it seems to be very largely evaded in the States that have such laws, but I do believe that if it were not for the fact that thirty-odd States have collateral and direct inheritance taxes, that that, after all, would be the best form of taxation that we could devise.

Mr. DIXON. When I show the Senator from New Hampshire, by the actual returns from these 32 States that take a little toll, that the state tax, with that proposed in the House bill itself, is a mere bagatelle, why is not this the most equitable form after all?

Mr. GALLINGER. I shall be glad to listen to the Senator.

Mr. DIXON. I want Senators to listen, especially to the latter part of my speech, for, with all due deference to my fellow-Senators, I think they will find some things in it that will be of interest. I will not detain you very long.

Mr. BEVERIDGE. Just one word on the point the Senator from New Hampshire raised. Because a State has an inheritance tax it does not follow that the Nation ought not to have an inheritance tax also, and its enactment, of course, would not deprive the State of that source of revenue; and so just is an inheritance tax, since the inheritance is given only by law and not by natural right, that it might not only be doubled and trebled, but quadrupled and still be more infinitely just than any other form of taxation, because it is taxation upon some person who has never earned one dollar of it.

I would ask the Senator from Montana, who, I see, has given this subject very careful research, if his research shows this: The States, of course, have both sources of revenue, and the experience of one hundred years has made them nearly all adopt inheritance tax, whereas only three or four of them have adopted the income tax. I ask whether the reason of that has been that they found in the one case that the inheritance tax gave a better return of revenue than the income tax gave. Is that the case?

Mr. DIXON. The New York tax commission discussed that at length and in detail and say that the universal experience where the two taxes have been applied is that no general tax is collected as successfully as an inheritance tax.

Mr. BORAH. Will the Senator permit me to make a suggestion there? It is very common in these late days to say that an income tax can be avoided, that it leads to perjury, deception, duplicity, and so forth. We have had no income tax in this country since 1870 which stood any length of time. I desired to know how it would work, in view of the constant charges that have been made. It has been my pleasure to go back and examine with a great deal of care the judgment of men who watched the working of that tax, and such men as Sherman and Morton and Howard and McCrary, men who had seen it in operation, stood up in Congress and insisted that it was the most collectible tax outside of customs dues that could be put on the statute books, and they protested against its repeal, and it was only repealed by a narrow vote of 1.

Mr. BEVERIDGE. Mr. President, just one word. I ask the Senator if, in the experience of the States for a hundred years as to the revenues they derive from an income tax, showing that it is not easy of collection, it is true not only of incomes, but of every form of taxation upon personal property where it can be concealed and is not visible to public view. I call the Senator's attention to the fact that the extract which he read from the great speech of General Harrison on the subject of the rich evading their taxation was directed not to the point the report of the New York commission shows, but that in every form of taxation on personal property that could be concealed the records did show that it was evaded. I do not think the Senator from Montana thought that the vice is peculiar to the income tax at all. It covers all sources of personal tax where it can be evaded. The Senator himself read a pertinent extract from that great speech.

Mr. CUMMINS. Mr. President, just a word, if I do not embarrass or unduly interrupt the Senator from Montana.

Mr. DIXON. Not at all.

Mr. CUMMINS. We have had no experience in this country—properly speaking, in the States—as to the operation of an income tax. We have never provided the machinery to impose or collect it properly. I rose, however, to suggest that across the sea we have one example which I think is a rather instructive one. Great Britain raises more revenue from income taxes than from any other one item of its taxation. I remember that Great Britain now raises about $133,000,000 per year from an income tax.

Mr. DIXON. And about $94,000,000 from an inheritance tax.

Mr. CUMMINS. About $90,000,000 to $94,000,000 from an inheritance tax. As I gathered from an observation of those taxes in Great Britain, the income tax is not more avoided than any other. I agree that the inheritance tax can not be concealed as easily as the case of incomes; but if we would depart from every tax that it is possible to avoid, it would be utterly impracticable to secure the revenue necessary for the Government.

Mr. BEVERIDGE. If we had the choice between the two—one of which could not be avoided and the other which could—then, of course, we would select the one which could not be avoided. I understood the Senator from Montana to say, and I asked the question of him and the Senator from New Hampshire also, that for a hundred years the States have had the two sources of taxation, one inheritance and the other income, and they selected the inheritance rather than the incomes, and was it not for the reason given by the Senator from New Hampshire, which was that the income tax in his State had not yielded revenue and the other one had?

Mr. CUMMINS. The Senator from New Hampshire did not suggest that the income tax had failed in New Hampshire.

Mr. GALLINGER. No.

Mr. BEVERIDGE. He gave some illustrations.

Mr. CUMMINS. New Hampshire never had an income tax. Only three or four States ever had an income tax.

Mr. GALLINGER. I used Massachusetts as an illustration.

Mr. CUMMINS. But an income tax is levied for several other reasons, which might very easily be given. I will not interrupt the Senator from Montana long enough to give those reasons. The suggestion that we should not levy an income tax simply because it is possible for a man to lie about his estate or about his income would, as it seems to me, apply with equal force to every kind of taxation except on physical, tangible property. I am not opposed to an inheritance tax. I would rather resort to an inheritance tax first than any other sort of tax.

Mr. DIXON. I am glad to hear the Senator say that.

Mr. CUMMINS. The income tax which is now before the Senate, the joint product of the Senator from Texas and myself, contains apt provisions with regard to inheritance and gifts and bequests and, in addition to the income year after year, all the inheritance that they may fall in during any given period. I want the Senator from Montana to know that I am thoroughly in accord with him with respect to the justice of an inheritance tax.

Mr. DIXON. I think the Senator from Iowa will agree that an inheritance tax is the easier collected of the two, as between that and an income tax. It is collected with more certainty.

Mr. CUMMINS. I believe it is collected with more certainty, but it would be necessary to impose a rather large percentage upon the inheritances of this country to raise the revenue which I believe it is necessary to raise now in order to add to the bill which is shortly to become a law.

I do not agree altogether with the Senator from California [Mr. FLINT] with regard to the amount which the bill will raise. I think some of the duties have been lifted to such an extent that they will not only not increase the revenue, but will very much decrease it.

Mr. BORAH. I wish to make a suggestion, and then I will not interrupt the Senator again. I do not know how it has been since, but in 1898 they collected on the income tax in Massachusetts $500,000, a fact of which the Senator from Massachusetts boasted in the corporation-tax discussion of 1898, at a time when he was opposing the tax with a good deal of earnestness.

Mr. DIXON. I think the $500,000 raised by Massachusetts in 1898 was from an inheritance tax and not from its income tax.

Mr. BORAH. Secondly, we are in the habit of saying it is all right to tax inheritance for the reason that somebody is receiving that which they did not help to give and to produce. That can only be true as to collateral heirs. I do not agree with the proposition that the family are not entitled, and entitled by every rule of morality, though technically not of law, to the earnings of the parent during their lifetime. So, while I would tax the collateral heirs very heavily, I would not tax the family to any considerable extent.

Mr. DIXON. What would the Senator from Idaho do in the case of an estate of $100,000,000? Would he apply the same rule?

Mr. BORAH. I would tax the direct heirs in such instance on that which they receive, to a limited extent, but I would not tax them wholly upon the theory that they were receiving something which they did not help to make, or were not, at least by every rule of justice entitled to. I think such a system of taxation might be carried to the extent of tearing away the foundation of family organization, and would be destructive of civilization, for the law of civilization, at whose base is the integrity of the family, is as strong in some respects as statute law.

Mr. DIXON. I will have to disagree with the Senator in the latter proposition.

Mr. President, I do not say that it would be impossible for Congress to frame an income-tax law that could not be enforced with some approximate degree of certainty. But in view of the universal experience in every State of the unsatisfactory condition resulting from an attempted assessment of intangible personal property, which would be only accentuated in attempting to levy a tax upon the net income of property, I am convinced that the same general results aimed at in an income-tax law can be accomplished with absolute certainty by the inheritance-tax provisions already placed in this bill by the House.

While all taxes are naturally repugnant to those who are compelled to pay them, it is my belief that the general desire and intent on the part of the taxpayer to avoid the payment of taxes largely arises from the almost universal belief that they are not levied with an even-handed and exact justice.

Any tax levied upon the property or the income of a person who has earned and saved that income or property is a direct burden placed upon that person's individual effort and thrift, and to that extent takes from him the net results of his effort. The proposed tax upon inheritance levies no burden upon the man from whom it is taken.

It is like the proposition of the Senator from South Carolina [Mr. TILLMAN] in his speech to-day urging us to place a duty on tea, to protect that "infant industry" in his own State; it is the exception to the rule. In no case does it work any hardship, for it merely takes slight toll from him who receives wealth which he in no way helped create.

The man who inherits wealth does so by the accident of birth. The very fact that he inherits unearned wealth gives the beneficiary a large advantage over his fellow-man in the struggle for existence.

The fact that the State itself by law, and not by natural right, creates and maintains at a large cost the right of inheritance

gives the State the right to take large toll for the privilege of inheriting wealth that the beneficiary never created.

During the past few years the inheritance-tax idea has appealed most strongly to thinking men. Practically every civilized nation except our own has already adopted it as a permanent part of its national revenue.

The inheritance tax has been imposed by the United States Government temporarily on three separate occasions. First, by the act of July 6, 1797; second, by the act of July 1, 1862; and more recently by the act of 1898, that was repealed four years later.

President Roosevelt in his message to Congress on the 4th day of December, 1906—and I want the junior Senator from Idaho to listen to this—said, in reference to inheritance and income taxes:

> There is every reason why, when our next system of taxation is revised, the National Government should impose a graduated inheritance tax, and, if possible, a graduated income tax. The man of great wealth owes a peculiar obligation to the State, because he derives special advantages from the mere existence of government.

Mr. BORAH. I agree with the President entirely. I think the man of great wealth owes it before he dies and while he is here as well as after. I agree with the President also in the proposition that we should have a graduated inheritance tax, and I would graduate it so that with the birth of the child, the direct heir, it would be very light.

Mr. DIXON. President Taft in his inaugural address delivered in this Chamber less than four months ago said:

> Due largely to the business depression that followed the financial panic of 1907, the revenue from customs and other sources has decreased to such an extent that the expenditures for the current fiscal year will exceed the receipts by $100,000,000. It is imperative that such a deficit shall not continue, and the framers of the tariff bill must, of course, have in mind the total revenues likely to be produced by it and so arrange the duties as to secure an adequate income. Should it be impossible to do so by import duties, new kinds of taxation must be adopted, and among these I recommend a graduated inheritance tax as correct in principle and as certain and easy of collection.

The Committee on Ways and Means of the House of Representatives adopted the recommendation of President Taft and inserted the provision in the present bill, based on the New York State inheritance-tax law, and estimated to yield, as I understand from members of the House committee, about twenty-five millions per year.

Why this wise provision should be rejected by the Senate now and in its stead to send the country into a laborious and circuitous campaign for an amendment to the Constitution in order to make an income tax surely possible, I am at a loss to understand.

The reasons advanced, that many of the States have already adopted inheritance-tax provisions for raising revenue, to my mind is not a tenable one. For the income tax must be levied from the same general class of citizens from whose estates the inheritance-tax revenue must come.

The fact that 32 States have already adopted inheritance-tax laws in my mind detracts but little from the argument for a national inheritance tax. The field is so fertile that both State and Nation can easily take tribute and no individual be damaged.

As a matter of fact, while the States have inheritance-tax laws on their statute books, the amount collected is at the present time a mere bagatelle.

I heard in the beginning of this debate, when the question was asked why the Finance Committee did not report the House provision regarding the inheritance tax, that 32 States have already adopted it and we do not want to invade the domain of States in this collection of revenue. I do not believe the Senate as a whole realize what a farce the inheritance tax is in the 32 States that have already adopted it. With the exception of 2 or 3 States it does not amount to enough hardly to pay for the printing of the statutes by which the tax was enacted.

I want you to listen to the returns. We have heard so much about the great field of taxation to the individual States, I want you to know the truth about it.

The whole amount of tax levied from this source by all the 32 States in 1905 was only $10,028,451.71; and I think, about $5,000,000 of the total amount came from the State of New York.

The fact that 7 States enacted inheritance-tax laws while the National Government was also collecting the same tax from 1898 to 1902 shows that no fear was entertained on that score by the state legislatures.

I ask permission to here insert a table showing the amount of revenues collected by the inheritance-tax laws of the different States for the year 1905, which was the only accurate complete return that I could find.

The table is as follows:

State revenue from inheritance taxes.

State.	Fiscal year.	Inheritance-tax receipts.
Arkansas	1905-6	$850.18
California	1905-6	[a] 292,704.89
Colorado	1905-6	[b] 48,646.40
Connecticut	1905-6	274,258.52
Delaware	1905-6	3,101.63
Illinois	1905-6	[b] 688,311.96
Iowa	1905-6	190,747.62
Louisiana	1906	86,654.88
Maine	1906	70,534.42
Maryland	1905-6	107,820.26
Massachusetts	1906	712,720.18
Michigan	1905-6	[c] 289,024.64
Minnesota	1905-6	159,454.91
Missouri	1906	213,131.09
Montana	1905-6	[b] 6,038.22
Nebraska	1905-6	[b] 2,120.24
New Hampshire	1905-6	[d] 3,276.55
New Jersey	1905-6	200,780.30
New York	1905-6	4,713,311.33
North Carolina	1905-6	4,673.41
North Dakota	1903-4	[e]
Ohio	1905-6	[f] 124,456.69
Oregon	1905-6	15,289.81
Pennsylvania	1905-6	1,507,962.11
South Dakota	1905-6	[d] 1,450.41
Tennessee	1905-6	[b] 34,309.93
Utah	1905-6	39,889.09
Vermont	1905-6	40,581.14
Virginia	1905-6	28,741.59
Washington	1905-6	[b] 33,267.34
West Virginia	1905-6	26,052.10
Wisconsin	1905-6	103,916.88
Wyoming	1905-6	[b] 4,372.99
Total continental United States		10,028,451.71
Hawaii	1905-6	5,879.69
Porto Rico	1905-6	14,413.68
Total		10,048,745.08

[a] Direct inheritance tax not fully in operation. Refunds ($45.12) deducted.
[b] One-half of receipts for two years.
[c] Refunds ($20) deducted.
[d] Law of 1905 not fully in operation.
[e] Law of 1903 not yet fully in operation.
[f] Including direct inheritance tax repealed 1906.

The great State of Ohio, with hundreds of estates of great wealth being transmitted to beneficiaries that year, who had toiled not, neither had they spun, for the vast accumulated wealth handed down to them, collected from her inheritance-tax laws only $124,456.69.

The State of West Virginia——

Mr. BORAH. What is the per cent in that State?

Mr. DIXON. As I recall it, the state government of Ohio cost about $15,000,000 a year to administer.

Mr. BORAH. What was the per cent that was levied as an inheritance tax?

Mr. DIXON. About the same amount, I think, provided for in the House provision.

Talk of robbing the States! In the great State of Ohio it did not produce——

Mr. BORAH. Of course, if no one died——

Mr. DIXON. But they are always dying. That is one of the beauties of this inheritance-tax law. It can not be escaped.

Mr. SCOTT. The climate of West Virginia is so good that we live to be very old there.

Mr. DIXON. I want the Senator from West Virginia now to listen. The great State of West Virginia, with its accumulated wealth of billions of dollars represented by its immense coal, iron, and oil fields, its timber lands and railroads, scores of millions of which that year were handed down to the people who had little or nothing to do with its creation, collected from her inheritance-tax laws the insignificant sum of only $28,052.10.

Yet you talk about holding back the inheritance-tax provision of this bill and not "robbing the States."

Mr. SCOTT. I will say to the Senator from Montana, if he will allow me, that I will admit that the inheritance tax has remained a dead letter on the books of West Virginia for a great many years, but from the showing of last year you will find much more.

Mr. DIXON. This is for the years 1905 and 1906.

Mr. SCOTT. It was a dead letter virtually before.

Mr. BRISTOW. I should like to inquire if the cause of such a small collection is due to the evading of the tax.

Mr. DIXON. The tax can not be evaded, for the reason that the probate court records are an open book.

Mr. BRISTOW. Why was it not collected, then, if it can not be evaded?

Mr. DIXON. Because the proportion they take is so insignificantly small it does not amount to anything. The rate——

Mr. BRISTOW. If the Ohio levy is the same as provided in the House bill, it is a very good levy and certainly would raise more than $28,000 on the enormous inheritances in the State of Ohio.

Mr. SCOTT. That was in West Virginia.

Mr. DIXON. I am giving the official record and return of the probate courts in Ohio.

Mr. BRISTOW. Is not that evidence that they are evading the tax in Ohio?

Mr. DIXON. How can the tax be evaded? It is the only tax that can not be evaded.

Mr. CLAPP. Will the Senator pardon an interruption?

Mr. DIXON. I want to be interrupted.

Mr. CLAPP. I can tell one way in which it can be evaded. I know one case where a man organized a corporation, put all his property into it, and then made a will, and took back a lease for the balance of his natural life. The State, however, was enabled to collect a part of it.

Mr. DIXON. I am not surprised at what people do in Minnesota, but this House bill and the New York statute expressly covers a case of that kind. If that gentleman had died after this bill had become a law with the House provision, his estate would have contributed.

Mr. CLAPP. The trouble is we can not frame a law which will prevent men while they are alive from disposing of their estates to their heirs with what they may consider judicious management.

Mr. DIXON. My experience——

Mr. CLAPP. Just a moment. I am not combating the idea of an inheritance tax; I think it is a good thing; but I undertake to say the small tax which has been collected, as shown by the Senator, if you could trace the matter down, you will find was very largely due to different devices that have been adopted.

Mr. GALLINGER and Mr. SUTHERLAND addressed the Chair.

The VICE-PRESIDENT. To whom does the Senator from Montana yield?

Mr. DIXON. I will yield first to the Senator from New Hampshire.

Mr. GALLINGER. I was about to remark that I am surprised at the figures the Senator gives as returned from these large States. I represent a very small State in population and we have had a collateral inheritance tax, I think, on the statute books for three or four years, not longer than that, as I remember. Our people are now agitating a direct inheritance tax likewise. I think in Massachusetts they have both. I am very sure of that. Yet in my little State we have had a hundred thousand dollars in the last year paid into the State treasury from the collateral inheritance tax.

Mr. DIXON. Collateral alone?

Mr. GALLINGER. Collateral alone. I can not understand how these great States have not made greater returns if the law has been enforced, unless the probate courts——

Mr. DIXON. Is the Senator certain of the figures he gives of the amount the inheritance-tax law of New Hampshire yielded last year?

Mr. GALLINGER. I am quite sure.

Mr. DIXON. I quote from the bulletin issued by the Bureau of Commerce and Labor for the year 1905–6, and New Hampshire yielded only $3,276.

Mr. GALLINGER. I think——

Mr. DIXON. The law of 1905 was not fully in operation.

Mr. GALLINGER. Certainly, it was not fully in operation. I will say to the Senator that last year it was something over $70,000. The state treasurer recently told me that for the ensuing year it would be fully $100,000. That is my authority, and I think that it is correct.

Mr. CUMMINS. Let me suggest that in those States which have only a collateral inheritance-tax law it is one of the easiest laws to evade of which I know, because it requires an alert, vigilant district attorney to look after the interests of the State and to establish in proper cases that there are no direct heirs; otherwise the estate is distributed and the tax is lost. In our State, it is my opinion that we do not collect more than 50 per cent of the tax we ought to collect. We have only a collateral-tax law. I think the Senator will discover that, like all other taxing laws, the ingenuity of man can evade its operations and escape its provisions.

Mr. GALLINGER. On that point, if the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from New Hampshire?

Mr. DIXON. Certainly.

Mr. GALLINGER. I would suggest that we have an official, either elected by the legislature or appointed by the governor, I think the latter, a very efficient lawyer, who gives his time to this matter, and I think we are making the collections absolutely all right.

Mr. BULKELEY. I was not in the Chamber, but I presume the Senator was talking about the New England States inheritance tax. I will say that in Connecticut we have no difficulty whatever in collecting it, and do collect it to the amount of $250,000 a year. It depends, of course, upon who happens to die; but the process of collection is a very simple one.

Where a will or an estate is probated in our probate courts, we pursue the same method in our State as we did in colonial times. Almost exclusively, in every town where a will is probated or an estate is probated, the court appoints the administrator of the estate, and the judge of that court is required to certify to the state treasurer the amount of the tax that is due the State, and that is the first thing that must be paid out of the estate.

Mr. DIXON. But not in Ohio.

Mr. DICK. Mr. President, while I was absent from the Chamber for a few moments, figures were quoted as to the law in Ohio. I am not materially interested in the figures, but I want to state that an inheritance-tax law was passed in Ohio one year and that it was repealed by the legislature the next year, the storm of protest and the unpopularity of the legislation making its repeal by an almost unanimous vote the logical result.

Mr. DIXON. Then you have no inheritance tax at this time?

Mr. DICK. None in Ohio at this time.

Mr. DIXON. I want to say that is the first time I have ever heard from any State that the law was unpopular. On the contrary, it is universally conceded to be the most popular of all the tax laws. That, I repeat, is the first time I ever heard the law criticised.

Mr. McCUMBER. Mr. President, will the Senator answer me a question?

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. DIXON. I do; and I will answer the question if I can.

Mr. McCUMBER. If the Senator from Montana says the amount collected was a mere bagatelle under the state law, why will that not be equally true under the federal law?

Mr. DIXON. Because we have the right to fix the rate at anything we want to.

Mr. McCUMBER. I am assuming that you fix the same rate.

Mr. DIXON. I think the House has practically fixed the same rate, except that it is a progressive tax in the case of secondary heirs to a larger extent than it is in most of the States.

Mr. McCUMBER. If the small amount collected is due to the avoidance of the tax in some manner or form, will there not be a greater disposition to avoid it if you add to the tax than there is at the present time?

Mr. DIXON. I think, in all fairness, anyone who has ever had any experience in regard to an inheritance-tax law will admit that the testimony is overwhelming that it is the only law that can not well be avoided.

Mr. McCUMBER. Does not the Senator find it to be the case that the great majority of the large estates are distributed before the death of the ancestor, instead of making a will as to the whole amount and allowing it to be probated? Where the tax would be at all heavy, would there not be a conveyance beforehand to the heirs of their proper share?

Mr. DIXON. Has the Senator, as a member of the Finance Committee, read the provisions of the House bill?

Mr. McCUMBER. Yes; I have read them.

Mr. DIXON. That bill expressly provides that all gifts or deeds of personal property, made in contemplation of death, are expressly taxed under the terms of the House provision. But I must hurry on. I have taken up more time than I had expected.

New Jersey, the very citadel of accumulated dividends, the home of thousands of multimillionaires, deducted from its inherited wealth that year only $200,780.30.

Montana, with its cattle and sheep barons and copper kings, withheld from their heirs and devisees, who received these millions as a gift, the pitiful sum of $6,038.22.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Minnesota?

Mr. DIXON. I do.

Mr. CLAPP. The Senator paid a sidewise compliment to the ingenuity of Minnesotans in avoiding this tax. I should like to know to what expedient the people in Montana resorted?

Mr. DIXON. Fortunately, or unfortunately, we did not happen to lose any very prominent citizens that year. It is a very healthy State, as my colleague [Mr. CARTER] remarks to me.

That year great States like Indiana, Texas, Kentucky, Alabama, Kansas, Idaho, South Dakota, Rhode Island, and a dozen others having no inheritance-tax laws, neither State nor National Government, took anything from the hundreds of millions of dollars that passed from their dead owners to the living beneficiaries, who did nothing only take and spend their "unearned increment." One or two of these States have since adopted inheritance-tax laws.

During this year (1905–6), while this great Nation, as a National Government, took nothing and the constituent States took only $10,000,000 from inherited wealth to help defray an expense of more than $3,000,000,000, largely expended in protecting property, the nations of Europe collected from this, the most equitable of all forms of taxation, enormous amounts.

INHERITANCE TAX IN EUROPE.

During the year 1908 England collected about $94,230,000 from inheritance—England, with a population of 44,000,000; the United States, with 90,000,000 population.

France from her inheritance-tax laws collected last year $57,123,000, and in addition thereto an additional local tax from the same source.

In Germany, until 1906, an inheritance tax had only been imposed by the separate States of the Empire. But by the imperial financial act of July 3, 1906, a federal inheritance-tax law was enacted, which allots to the separate States a part of the proceeds and at the same time allows them the privilege of levying additional inheritance taxes on their own account. The imperial tax produces about 72,000,000 marks annually, of which 48,000,000 marks go to the Empire, leaving the States 24,000,000 marks, about the same amount as they formerly received from that source.

Mr. CRAWFORD. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from South Dakota?

Mr. DIXON. I yield to the Senator.

Mr. CRAWFORD. I should like to know if the Senator has ascertained how much was received by the Government under the inheritance tax when it was in force?

Mr. DIXON. About $5,000,000 a year.

Mr. CRAWFORD. No more than that?

Mr. DIXON. I think before the act was repealed, subsequent to the Spanish-American war, it yielded altogether about $20,000,000; but it was a very slight tax.

Switzerland, Italy, Australia, New Zealand, each have inheritance-tax laws, in every case taking much larger toll than any similar law in any State of the Union, and far more drastic than that proposed by the House bill. In fact, the United States is practically the only civilized Nation that has not made the inheritance tax a part of its system of national revenue.

The inheritance-tax scheme in the House bill is most mild-mannered in its provisions as compared with that imposed in Europe.

Under its provisions, estates valued at $10,000 and not exceeding $100,000 pay a tax of 1 per cent of the market value; if exceeding $100,000 and not exceeding $500,000, 2 per cent of the market value; if exceeding $500,000, 3 per cent.

The foregoing provisions apply to the direct heirs, including father, mother, husband, wife, child, brother, sister; to the collateral heirs the rate is 5 per cent straight.

I find that the rate imposed in the House provision is approximately that in force in the various States that have adopted an inheritance-tax provision. So that in the event this present House provision regarding inheritances should be adopted, an estate upon which the tax was collected both by the State and National Governments would only contribute to both 2 per cent through the direct heirs and 10 per cent through the collateral heirs.

As against this tax the French Government takes from the direct heir from 4 to 7 per cent and from the collateral heir from 12 to 20 per cent, the tax there, as in all foreign countries, varying both according to the amount involved and the varying kinship.

In France, where the estate exceeds 50,000,000 francs (about $10,000,000), the State takes 5 per cent from the direct heir and as much as 20 per cent from the second cousin.

In Germany the rates are so sharply progressive that inheritances exceeding 1,000,000 marks ($250,000) going to distant relatives are taxed 25 per cent.

England sharply graduates her inheritance tax from about 1 per cent on estates between $500 and $2,500 in value to from 10 to 15 per cent on estates exceeding £750,000 ($3,500,000) in value. In addition to the above "estate duty," there is a "legacy duty" on personal property and a "succession duty" on real estate passing to collateral heirs, graduated according to the relationship existing between the decedent and the heir, from 3 per cent for brothers and sisters to 10 per cent for distant relatives.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. DIXON. Certainly.

Mr. HEYBURN. I rise merely to suggest that the comparison between England or Germany and this country is hardly a fair comparison. The presumption in both of those countries is, and always has been, that the estate belongs to the lord of the fee. There is a natural presumption in favor of it thus passing, and the inheritance tax is a fine in the nature of a release. We have no corresponding element in our Government whatever. There is no presumption that the Government of the United States is the owner of the estate of a deceased person. We are purely creatures of legislation, and I think it is hardly fair to compare the principle in those countries with this country.

I do not very much differ in the ultimate conclusion from the Senator from Montana; but I do not think, as an argument, that it is entirely fair to compare the conditions in those countries with conditions in this country. I think the Senator will find a stronger reason for the imposition of an inheritance tax under our system of government.

Mr. DICK. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Ohio?

Mr. DIXON. I do.

Mr. DICK. I may suggest a little further extension of the illustration made by the Senator from Idaho in this, that in the foreign countries referred to they levy their tax as one general tax upon all the people, while here we are dealing with 46 States.

Mr. DIXON. The Senator from Ohio is mistaken. The German Government expressly levies the tax and divides it pro rata in certain proportions from the tax received from the collateral heirs, and leaves the individual States of the German confederation the right to levy on the direct heir.

Mr. DICK. Then there is a very great difference, because they levy the tax and distribute it, while we do not permit the States to be disturbed in their methods of taxation by the Federal Government from any standpoint whatsoever.

Mr. DIXON. I can not conceive of the reasonableness of that argument. We are proposing to do in the House provision exactly what the German Government is doing.

Mr. CUMMINS. Before the Senator passes on——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Iowa?

Mr. DIXON. Yes.

Mr. CUMMINS. I was very much impressed a few moments ago by the statement of the Senator from Montana to the effect that the United States was about the only civilized nation in the world that did not levy an inheritance tax.

Mr. DIXON. As a national tax.

Mr. CUMMINS. As a national tax. Undoubtedly the Senator, as he has been examining this matter, can also answer whether the United States is not about the only civilized nation that does not levy a national income tax.

Mr. DIXON. The United States is about the only civilized nation that does not levy an income tax. I want the Senator especially to understand my position. I believe that both the income tax and the inheritance tax reach the same source of supply. One, I contend, is easily collected and the other is not, especially in view of the adverse decision of the Supreme Court.

Mr. CUMMINS. I think I understand the Senator from Montana. I know that he is not hostile to the income tax; but I wanted those two statements to go out together——

Mr. DIXON. They are both in the RECORD.

Mr. CUMMINS. So that the country might know that we were not only the only nation which did not levy a national inheritance tax, but we were the only considerable nation in the world that did not levy a national income tax.

Mr. DIXON. That is correct.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Utah?

Mr. DIXON. I yield to the Senator from Utah.

Mr. SUTHERLAND. Can the Senator from Montana tell us whether or not the German Empire levies an income tax?

Mr. DIXON. The German Empire levies a tax on collateral heirs.

Mr. SUTHERLAND. No; an income tax?

Mr. DIXON. I think they do.

Mr. SUTHERLAND. My understanding is to the contrary.

Mr. DIXON. I am not positive.

Mr. SUTHERLAND. I understand that the German Empire does not levy a national income tax, but some of the States of the German Empire do.

Mr. DIXON. That may probably be correct.

Mr. SUTHERLAND. And in that respect there would be a parallel between the case of the German Empire and the United States, the German Empire leaving it to the individual States to deal with that subject, as, I think, under ordinary circumstances, the United States Government ought to leave it to the individual States to deal with it. The Senator said, in answer to the question of the Senator from Iowa, that the United States is about the only civilized country that does not levy an income tax. France does not, as I understand.

Mr. CUMMINS. I beg the Senator's pardon; France does levy an income tax.

Mr. SUTHERLAND. An income tax?

Mr. CUMMINS. Certainly; at least that is my information, and I have given the subject a good deal of study.

Mr. SUTHERLAND. My information is to the contrary.

Mr. CUMMINS. I have a pamphlet on my table showing the proceeds of the income tax in France.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. DIXON. I yield to the Senator from Idaho.

Mr. BORAH. One of the issues of the late campaign in France was the question of an income tax. It was adopted and made a law some five or six months ago, and is now an existing law in that country.

Mr. SUTHERLAND. It was not levied prior to four or five months ago.

Mr. BORAH. I think it is about four or five months ago that it was put in operation for the first time.

Mr. DIXON. Then the Senator from Utah was right in his information as to former conditions in France.

Mr. CUMMINS. I can give the exact date. I have it in my pamphlet.

Mr. SUTHERLAND. I have no doubt that the Senator from Idaho is correct in his statement, but it had escaped my attention. My information is—and it is historic—that ever since the French revolution in 1793, the people of France have been bitterly opposed to an income tax; and while it has been proposed at different times, uniformly the Government has declined to impose it.

Mr. DIXON. Now, what I have tried to say three or four times, and have been unable to say, on account of the importunities of my friends, is that in England the combined effects of these duties is that an estate exceeding $3,000,000 in value passing to a distant relative, or by will to a stranger in blood, pays about 23 per cent. And why should it not?

In a recent edition of the Cleveland Leader, I noticed an editorial—and I want the senior Senator from Ohio [Mr. DICK] to listen to this, as he says that the inheritance tax was unpopular—regarding this plan of the inheritance tax, which I send to the desk and ask that it may be read.

It is from the Cleveland Leader of June 1, 1909, and does not sound as if the inheritance tax is unpopular in Ohio.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

INHERITANCE TAXES.

[From the Cleveland Leader, Tuesday, June 1, 1909.]

A very old bachelor named Charles Morrison has died in England, leaving a fortune believed to exceed $50,000,000. It may prove to be $75,000,000. He was a man of simple habits, and his great wealth was therefore little noticed or commented upon.

If the new schemes of taxation devised and promoted by Mr. Lloyd-George and his colleagues in the Liberal ministry are accepted, as there is strong reason to believe that they will be, the British Government will take more than $10,000,000 out of this big Morrison estate. It will be taxed at the highest rate for what the English call "death duties," or 15 per cent, and 5 per cent additional for succession dues.

Why should not such a share in so vast an accumulation of property go to the state? Who is harmed thereby? Not the heirs, because they have left more than they can need. No violence is done to the strictest principles of justice, because there is no such thing as passing lands and other property from the hands of a dead man to those of his kinsfolk or other heirs except by the aid of laws and governmental power. Those who inherit a great estate take possession by virtue of institutions created by society, not because they are themselves able to seize and hold the property. They do not earn the riches that come to them. They have lived without that wealth. It falls to their hands by good fortune and the consent of the state.

No hardship is inflicted by taking a liberal slice of a great estate, under such circumstances, for the use of the government upon which the ability to inherit wealth depends. It is one of the least oppressive taxes which can be levied anywhere at any time, and in advocating graduated inheritance taxes Theodore Roosevelt and other statesmen are in harmony with a powerful and growing public sentiment.

Mr. DIXON. Mr. President, it has been a surprise to me that the Finance Committee has seen fit to quietly ignore the one provision of the House bill that, to my mind, seemed to meet the requirements of the present state of the Federal Treasury, without any question being raised against it on account of a second possible adverse decision from the Supreme Court as to its constitutionality, as is the case in the income tax and possibly the newly proposed corporation tax. There can be no question raised as to the certainty and ease with which it can be collected. To the unprejudiced mind, it certainly is the fairest and most equitable of all.

Some one has said regarding income tax: "Don't disturb the bee while he is gathering the honey." As to the inheritance tax, I would carry the suggestion a little further, and suggest that when the bee has gathered the honey by his own laborious efforts through the season of a long and laborious life, before turning the accumulated hive of honey over to the drones to eat and fatten at the expense of him who gathered it, let the guardian of the hive, the Government, step in and take at least a small share as a recompense for the expense and care that was necessary in safeguarding the hive, without which care it would have been impossible for the bee to have accumulated his honey.

MISFORTUNE OF VAST FORTUNES.

I now come to that phase of the inheritance-tax question that might be a fertile source for a demagogic appeal to the spirit of envy and hatred in the man who has not against him who has wealth.

Speaking personally, I have no envy for the multimillionaire or the great modern financial "captains of industry." To the man who enters the lists of the commercial and financial world, and by his brain and nerve and brawn fights the battle successfully, and wins by honorable means, I have nothing but sincere admiration and words of praise.

And my opinion is not changed, whether the fortune he wins by his efforts be measured by the thousands or by the millions of dollars.

What that man has legitimately won, I believe he should enjoy to the utmost degree.

If mansions and art galleries, steam yachts and princely gifts, endowments, and all the other luxuries that wealth can buy are either necessary, convenient, or helpful to his full enjoyment of life, I would give him full rein.

But I do believe that in a democracy, where that which we all profess to believe the ideal condition of government is that which gives equal opportunity to all, that the entailing or the handing down to posterity of these latter-day enormous fortunes may produce a condition in society that is fraught with great danger.

I would not deny to any man the right to transmit to his children any sum sufficient to enable them to have everything that would be conducive to their comfort and welfare measured by the highest priced standard of modern living, and I would not overlook the decision of the New York court in the Gould divorce case a day or two ago in fixing that standard. I confess I am not able to at this time nor will I attempt to fix that limit.

The ancient law of primogeniture, giving to the eldest son the right to inherit all the property of the ancestor, a result of the feudal system, while transmitted to the new world was abolished by the founders of this Republic.

They fully appreciated both the injustice to the individual and the dangers of such an unequal accumulation of wealth in the hands of the few.

The founders of this Republic forbade by constitutional prohibitions the entailing of estates. They were rightly afraid of the consequences that permitted men to direct for generations after they were dead and gone the disposition of real property, acquired by them during their lifetime, either by purchase or gift.

While all lawyers are familiar with the celebrated English statutes of mortmain (from the Latin, mortua manus—a dead hand), no common-school history of the English people would be complete unless it recited the story of the struggle, lasting for five hundred years, of the English nation to free itself from the "dead hand" of the great ecclesiastical corporations, which threatened gradually to absorb the lands of England, without rendering in return for their tenure services to the overlord or, in other words, the State, the earliest of the provisions against alienation in mortmain being one of the provisions of the Magna Charta itself.

While the law of primogeniture is unknown in our national life, while the practice of entailing landed estates is prohibited by constitutional enactments, as a matter of cold fact the actual entailing of large estates to the second and third generation by their dead owners is rapidly becoming the custom with the owners of these latter-day swollen fortunes.

Of recent years it is the almost universal custom of these multimillionaires to place their vast estates in a trusteeship by the terms of which they can direct its course for a hundred years after they are dead and gone.

The well-known case of the great estate of Marshall Field, of the estimated value of $150,000,000, is now securely lodged

in the management of trustees for the ultimate benefit and use of two boys of the third generation, who are being at this time reared and educated in England, and are, as I understand it, now actually citizens of a foreign country. The $150,000,000 of American property for the protection of which this Government maintains its army and navy, its courts, its legislative and executive branches of government, yields no direct service to its overlord, the Federal Government.

THE "DEAD HAND" STILL IN EVIDENCE.

In this and hundreds of other cases, the "dead hand" is once more in direct evidence, in some degree directing and controlling the conditions under which men and women of this and succeeding generations must earn their living, and yet that "dead hand" gives little or nothing in return.

Whatever may be the remedy, if there be a remedy, it is apparent to us all that a condition of society that permits two of its members to absorb one hundred and fifty millions (and the natural increase will probably double the amount by the time they reach maturity) of the accumulated earnings of others by the mere accident of birth is an abnormal and dangerous condition for society and government.

We may hold up our hands in holy horror at this assertion and say this is "rank socialism," but it is nevertheless true.

Even the Wall Street Journal as recently as October, 1906, in discussing the dangers from "swollen fortunes," said:

President Roosevelt isn't the only one who has discovered in great individual fortunes a possible peril to American liberties. As long ago as 1849 Horace Mann, one of the most patriotic and unselfish servants of the people this country has ever produced and to whom it owes in largest measure its present great system of public-school education, said: "Vast fortunes are misfortunes to the State. They confer irresponsible power; and human nature, except in the rarest instances, has proved incapable of wielding irresponsible power without abuse. The feudalism of capital is not a whit less formidable than the feudalism of force. The millionaire of our day is no less dangerous to the welfare of the community than was the baronial lord of the middle ages."

In the April 10, 1906, issue of that conservative journal, the Boston Herald, I find the following editorial:

"Shall not a man do what he will with his own?" This question is raised again by the publication of the will of E. C. Swift, the Chicago meat packer, who died last week. He left property valued at $10,000,000 and upward, and with the exception of $5,000 to the Methodist Church at Sagamore, in this State, and $2,000 to the cemetery in that town, made in public bequests, the bulk of his great fortune is left to the widow; his daughter, an only child; and his son-in-law. Coming so soon after a similar disposition of a far greater property by Marshall Field, who made no public bequest except an endowment to the museum which bears his name, the Swift will naturally causes some discussion. Legally, of course, a man may do what he will with his own except so far as the State steps in with its inheritance tax and takes a tithe in partial compensation for the care and protection which it has given to the fortune builder in his work in amassing riches. But if these two Chicago examples illustrated the rule rather than the exception in the disposition of vast estates, there would very soon arise a popular demand for an income tax or heavier "death duties" or some other method of limiting the size of individual fortunes or preventing that practical reestablishment here of the law of primogeniture and entail, which the framers of our Constitution sought to abolish.

It is well known that Andrew Carnegie has advocated for years a progressive inheritance tax and that only recently in an address in New York City he reaffirmed, with exceptional significance, his belief that the state should exact from every large estate "a tremendous share, a progressive share."

President Roosevelt, in a recent message to Congress, said:

I feel that in the near future our National Legislators should enact a law providing for a graduated inheritance tax by which a steadily increasing rate of duty should be put upon all money or other valuables coming by gift, bequest, or devise to any individual or corporation. In any event, in my judgment, the pro rata of the tax should increase very heavily with the increase of the amount left to any one individual after a certain point has been reached. It is most desirable to encourage thrift, and a potent source of thrift and ambition is the desire on the part of the breadwinner to leave his children well off. This object can be obtained by making the tax levy very small on moderate amounts of property left; because the prime object should be to put a constantly increasing burden on the inheritance of those swollen fortunes which it is certainly no benefit to this country to perpetuate.

My own judgment is that the provisions of the House bill in fixing the minimum of value of estates to be taxed should have made the limit fifty thousand instead of ten thousand, as applied to the direct heirs. As to collateral heirs, I would fix no minimum, but include all estates.

Why should not the Senate adopt the House inheritance-tax provision?

Why is it that it has been stricken from this bill by the Senate committee with not a voice raised in protest against the action of the Finance Committee?

No question is raised as to its being constitutional, for the Supreme Court of the United States within less than ten years has expressly held that such a tax is constitutional, while holding that the income tax is not constitutional.

Its provisions reach the same class that would an income tax.

Its collection is easy and certain, whereas in actual experience the income tax has not been easy and certain of collection.

It has all the virtues that are claimed for the income tax, without a question raised as to the vices of the income tax in the matter of its enforcement and constitutionality.

Are we simply acting on the assumption that all legislative wisdom rests in the Finance Committee of the Senate?

Because an agitation has been raised here and in the newspapers over an "income tax," will we pass by in silence an actual opportunity to enact an inheritance tax, which nearly every individual Senator admits is more easily enforced and with no doubt as to its validity?

The psychological moment for the enactment into law of this most meritorious of measures is now presented to us. I am quoting from my friend the Senator from Oregon. [Laughter.]

We know, as experienced legislators, that not in years will its enactment be so easy as now. If we disagree with the Finance Committee amendment and adopt the House provision, there can no legislative situation arise so that it will be possible for it to "go out in conference."

What say you, Senators, on the other side of this Chamber?

From what I have seen and heard and know of the sentiment among many Republican Senators on this side of the Chamber, I am certain that if you will vote with us a graduated inheritance tax will become a permanent part of the Nation's revenue within the next thirty days, and that its final passage will mark a milestone in the economic history of this great Republic.

Mr. President, I ask leave to insert, as a part of my remarks, a table showing the main provisions of the American inheritance-tax laws, by States.

The VICE-PRESIDENT. Without objection, permission will be granted.

The table referred to is as follows:

Main provisions of American inheritance-tax laws.

State.	Dates of principal acts.[a]	Collateral.		Direct.	
		Rates.	Exemptions.	Rates.	Exemptions.
		Per cent.		*Per cent.*	
Arkansas	1901	5			
California	1903, 1905	1½-15	$500-$2,000	1 - 3	[b] $4,000
Colorado	1901, 1902	3 - 6	500	2	10,000
Connecticut	1889, 1897	3	10,000	½	10,000
Delaware[c]	1869, 1883	5	500		
Idaho	1907	1½-15	500- 2,000	1 - 3	[b] 4,000
Illinois	1895	2 - 6	500- 2,000	1	20,000
Iowa	1896, 1904 [d]	5	1,000		
Kentucky	1906	5	500		
Louisiana[e]	1904	5		2	10,000
Maine	1893, 1901	4	500		
Maryland	1845, 1874	2½	500		
Massachusetts	1891, 1907	3 - 5	1,000	1 - 2	10,000
Michigan	(1893) 1899, 1903	5	100	[f] 1	2,000
Minnesota	(1875) 1905	1½- 5	10,000	1½- 5	10,000
Missouri	(1895) 1899	5			
Montana	1897	5	500	[f] 1	7,500
Nebraska	1901	2 - 6	500- 2,000	1	10,000
New Hampshire	(1878) 1905	5			
New Jersey	1892, 1894	5	500		
New York	(1885, 1891, 1908, 1905	5	500	1	10,000
North Carolina	(1847) 1901	1½-15	2,000	¾	2,000
North Dakota	1903	2	25,000		
Ohio	(1893, 1894 (1904)	5	200		
Oregon	1903	2 - 6	500- 2,000	1	[g] 5,000
Pennsylvania	(1826, 1887 (1897)	5	250		
South Dakota	1905	2 -10	100- 500	1	5,000
Tennessee	1891, 1893	5	250		
Texas	1907	2 -12	500- 2,000		
Utah	1901	5	10,000	5	10,000
Vermont	1896, 1904	5			
Virginia	(1844) 1896	5			
Washington	1901, 1907 [h]	3 -12		1	10,000
West Virginia	(1887, 1904, 1907	3 - 7½		1	20,000
Wisconsin	(1868) 1899, 1903	1½-15	100- 500	1 - 3	[i] 2,000
Wyoming	1903	5	500	2	[j] 10,000
Hawaii	1892, 1905	5	500	2	1,000
Porto Rico	1901	3 - 9	200	1 - 3	200

[a] Dates in parentheses indicate acts which have been repealed or declared unconstitutional.

[b] Widows and minor children taxable only on the excess above $10,000 received by each.

[c] Tax payable only by strangers in blood.

[d] Discriminating rates against nonresident aliens introduced by Iowa in 1904) chap. 51).

[e] Tax not payable when the property bore its just proportion of taxes prior to the owner's death.

[f] Applies to personal property only.

[g] Decedent's estates of less than $10,000 are also exempt.

[h] Discriminating rates against nonresident aliens introduced by Washington in 1907 (chap. 217).

[i] Widows taxable only on the excess above $10,000.

[j] For the surviving husband or wife and children, if residents of Wyoming, $25,000.

Mr. OWEN. Mr. President, I do not agree with the Senator from Montana [Mr. DIXON] that the psychological moment is at hand for the adoption of the inheritance tax. I have not the slightest idea that there is any probability of the programme laid down by the committee being changed in any respect. But I am in thorough accord with the view of the Senator from Montana in regard to the wisdom and propriety of an inheritance tax. I favor, equally, the income tax. But I regard the inheritance tax as a matter of far greater importance, and that it ought to be added to our permanent fiscal system, not only for the purpose of raising revenue, but for the further and more important purpose of abating the increasing danger of the accumulation of fortunes swollen beyond all reason, which now constitute a menace to the stability of our finance and of our commerce and to the liberties of the people of the United States and of the civilized world.

I suggest to the Senate a progressive inheritance-tax amendment, which I ask the Secretary to read.

The VICE-PRESIDENT. Without objection, the Secretary will read the amendment proposed by the Senator from Oklahoma.

The Secretary read as follows:

PROGRESSIVE INHERITANCE TAX AMENDMENT.

Suggested to the Senate by Mr. OWEN.

In lieu of sections 34 and 35, insert the following:

"A legacy duty shall be and is hereby imposed upon the transfer of any right, title, and interest in or to any property, real or personal, by will, grant, or transfer in any manner, or under the intestate law of any State or Territory, or of the United States, from any person in anticipation of death, or of any person dying, who is seized or possessed of such property while a resident of the United States, or of any of its possessions; or when the property of such decedent lies within the United States, or within any of its possessions, and the decedent or grantor was a nonresident of the United States, or of any of its possessions, at the time of his death, in accordance with the following schedule, to wit:

"Where the clear value of the entire estate is less than $100,000 it shall be exempt from legacy duty, otherwise, subject to the following duties, to wit:

"Where the clear value of the entire estate is between $100,000 and $300,000, 1 per cent; between $300,000 and $500,000, 2 per cent; between $500,000 and $600,000, 3 per cent; between $600,000 and $700,000, 4 per cent; between $700,000 and $1,000,000, 5 per cent; and upon every excess in the clear value of such estate over and above $1,000,000 there shall be automatically added in addition to 5 per cent, and accumulative as to each additional increase, 1 per cent additional legacy duty to be laid upon each increase in the clear value of such estate of $1,000,000, or the major fractional part thereof, until such duty reaches 100 per cent cumulative duty upon such additional increase in the clear value of such estate.

"*Provided*, That when such estate, by will, devise, grant, or inheritance law goes to collateral kin, there shall be imposed the following additional legacy duty upon such portion only of such estate as may descend to such persons severally, to wit:

"Brothers and sisters, or their descendants, 3 per cent; uncles and aunts, or their descendants, 5 per cent; other persons, not children or parents, 10 per cent.

"*Provided*, That any property conveyed, in anticipation of death, by any person, as a gift or grant to the extent conveyed without adequate consideration, where such estate would come within the rule imposed by this act, fixing such legacy duties, such conveyance, gift, or transfer, however made, shall be subject to the legacy duty herein provided, as if it were the estate of a decedent, and the estate shall be chargeable therewith unless otherwise paid. Where corporate stocks or bonds are transferred or placed under a trust for transfer within five years previous to death, as a gift, either in whole or in part, to that extent such transfer shall be conclusive evidence of its character as a legacy.

"*Provided, however*, That property devised or bequeathed to any religious, educational, patriotic, charitable, or benevolent corporation or institution shall be exempt from legacy duty.

"The legacy duty hereby imposed shall be a lien and charge upon the property of every person who may die as aforesaid, from the date of the death of such person, and shall be payable within one year, bearing 6 per cent from the date of the death for the first twelve months, and thereafter at the rate of 10 per cent until fully paid.

"The Secretary of the Treasury is authorized and directed to submit to Congress rules and regulations for the collection of the same for further congressional action."

Mr. OWEN. Mr. President, the Finance Committee has struck out the inheritance-tax provision of the House of Representatives. It should have been heavily increased and made progressive on the swollen fortunes of the country. The most important need of the people of the United States of this generation requires the abatement of the gigantic fortunes being piled up by successful monopoly, by successful stock jobbing, by skillful appropriation under the protection of the law of all the opportunities of life, and which have brought about a grossly inequitable distribution of the proceeds of human labor and of the values created by the activities of men.

I have framed this provision for the express purpose of proposing a readjustment in the distribution of wealth in this country in a manner which will restore to the people who have created these values the gigantic sums appropriated either by fraud or by the permission and the assistance of the law itself.

DISTRIBUTION OF WEALTH.

Mr. President, I have heretofore shown to the Senate in a manner most conclusive that the very great part of all of the wealth of this country has already passed into the hands of less than 10 per cent, and over half of the national wealth into the hands of less than 1 per cent of the people. (P. 3282, CONGRESSIONAL RECORD, June 15.)

Spahrs's table for the distribution of wealth in the United States, taken from his work, "The Present Distribution of Wealth in the United States," when our national wealth was $60,000,000,000, is as follows:

Class.	Families.	Per cent.	Average wealth.	Aggregate wealth.	Per cent.
Rich	125,000	1.0	$263,040	$32,880,000,000	54.8
Middle	1,362,500	10.9	14,180	19,320,000,000	32.2
Poor	4,762,500	38.1	1,639	7,800,000,000	13.0
Very poor	6,250,000	50.0			
Total	13,500,000	100.0	4,800	60,000,000,000	100.0

The inequalities have been steadily growing worse, and when a single person's fortune is estimated at a thousand millions and is gathering in $50,000,000 per annum of the net proceeds of the products of the labor of this country, while millions of human beings can not lay aside $50 apiece per annum, what must be the inevitable result? It is this condition, half understood, that is developing rapidly a sentiment of radical socialism, discontent, and social unrest.

Moody's Manual of 1907, page 30, presents a "General Summary" of corporations offering stocks and bonds for sale to the stock exchanges and recorded by him in great detail in a volume of nearly 3,000 pages, as follows:

	Total stocks and bonds.
Steam railroad division	$15,436,758,000
Public utilities division	8,130,464,000
Industrial division	10,156,333,000
Mining division	2,525,173,000
	36,248,668,000

In addition to this enormous volume of corporate wealth, which comprises a registered one-third of our national wealth, there is an unregistered volume of corporations which are close corporations which do not sell stock, which are personal corporations, amounting to thousands of millions of dollars.

I respectfully call your attention to the Statistical Abstract of 1907, Table 244, which sets forth the wealth of the United States, which shows clearly where its approximate ownership may be found, to wit:

Table 244, Statistical Abstract, 1907.

Real property	$62,341,492,134
Live stock	4,073,791,736
Farm implements and machinery	844,989,863
Manufacturing machinery, tools, etc	3,297,754,180
Railroad equipment	11,244,752,000
Street railway, shipping, waterworks	4,840,546,909
Agricultural products	1,899,379,652
Manufactured products	7,409,291,668
Imported merchandise	495,543,685
Mining products	326,851,517
Clothing and personal ornaments	2,000,000,000
Furniture. carriages	5,750,000,000
Total for United States	107,104,211,917

Where do the city laborers under protection come in as joint heirs of modern prosperity?

What part of this wealth created by labor is theirs?

They have no real estate, no live stock, farm machinery, manufacturing machinery, railroads, or under any visible classification. The only thing that they can have under this tabulation is clothing and a little personal property.

And yet the products of the labor in our specified manufacturing industries of 1905 reached a total of $14,802,147,087, for 5,470,321 wage-earners, whose product was therefore worth $2,708 per capita.

These people received $2,611,540,532 in wages (Stat. Abst. U. S., 1907, p. 144), or $479 per capita.

This $479 each must feed and shelter and clothe and educate and provide leisure and the joyous participation in the common providences of God for an average of three people, or about $160 each per annum, or about an average of $13.33 per month.

There can hardly be much margin of saving under the circumstances for sickness, ill health, accident, or loss of employment.

In New York City, with over four millions of people, less than 1 in 40 has any real estate.

ENORMOUS WEALTH INHERITED BY A MAN'S CHILDREN IS WORTHLESS IN THE HIGHEST AND BEST SENSE.

Mr. President, it takes a human being of the first magnitude to administer an estate of $10,000,000 with wisdom and efficiency. No human being can properly consume the income of such an estate, which, at 5 per cent, will make an income of $500,000 per annum, $1,366 per diem—about a hundred dollars an hour for every waking hour.

Since such vast sums of money can not be properly used by the individual in the gratification of any just personal needs, and since its possession frequently leads to the wildest extravagances, to the establishment of false standards of life, and often leads to harmful dissipation and vice, and sometimes even to the corruption of our legislatures, of our administrative offices, and of the judiciary itself in the crafty ways by which we all know human beings can be misled, a wise public policy should establish a system of government which will restore to the people so much of the swollen fortunes developed by our modern methods as justice demands.

No thoughtful student will deny that these gigantic fortunes represent values created by the labors and the activities of our people. No man can deny the moral righteousness of restoring to the people by legacy duty that which they have created and which has been taken from them under legal processes and by fair legal means, in the best view of the case, and by crafty, unfair, and illegal means in the worst view of the case.

THE TAX MORALLY AND ETHICALLY JUST.

It will do no harm to the legatees of these swollen fortunes to contribute to the State a reasonable percentage of such fortunes. They receive these fortunes as a gift, without effort, without service, and are purely beneficiaries of a public legal gratuity, which permits them to receive, without consideration, vast sums by authority of a public statute.

It is true, Mr. President, that the usual inheritance statute itself, based upon the obligation of the parent to provide for his child, is thereby justified; that the child, the wife, the dependents have moral claim for support out of the proceeds of the labor, self-sacrifice, ambition, or providence of the parent; but these considerations are abundantly recognized and provided for in the amendment which I have the honor to submit. They are more than provided for; they are left rich beyond every possible desire or need of a well-ordered mind or a well-disposed heart.

We all agree that it would be unwise to remove or weaken the incentive of an abundant reward as a compensation for the great personal virtues of industry, providence, enterprise, self-sacrifice, and labor, and the proposed legacy duty will not remove a reasonable incentive, while it will put, perhaps, a check on unrestrained ambition not content with tens of millions, but greedily disposed to acquire hundreds of millions at the expense of a just distribution of wealth. Common sense and sound public policy demand that a fair incentive be not taken away from the humbler citizens, who now, in vast numbers, have not a sufficient supply of this world's goods to protect themselves against an illness of thirty days, and from whom every incentive of hope is removed except the pittance of a meager daily bread.

While we should be considerate of the incentive to labor, industry, providence, and self-sacrifice on the part of strong and powerful men, we should see to it that this incentive is not taken away from millions of weaker men, or permit one man, with the advantage of the accumulated millions drawn from his ancestors, UNDER THE AUTHORITY AND PERMISSION OF OUR LAWS, to appropriate all of the opportunities of life, and thus deprive millions of feebler men of the incentive which we all agree is of the highest importance in developing human beings.

THE PRACTICE SUSTAINED BY FOREIGN COUNTRIES.

Mr. President, the plan proposed is lawful and has been passed upon by the Supreme Court of the United States in Magoun *v.* Illinois Trust and Saving Bank (107 U. S., 283), in which the court held that the inheritance-tax law of Illinois makes a classification for taxation which the legislature had power to make, and that the inheritance-tax law does not conflict in any way with the provisions of the Constitution of the United States.

The court in this case shows that these laws have been in force in many of the States of the United States—Pennsylvania, 1826; Maryland, 1844; Delaware, 1869; West Virginia, 1887; Connecticut, New Jersey, Ohio, Maine, Massachusetts, 1891; Minnesota, by constitutional provision.

The constitutionality of said taxes has been declared and the principles explained in many cases referred to in the case above mentioned. For example, in the United States *v.* Perkins (163 U. S., 625), Klapp *v.* Mason (94 U. S., 589), United States *v.* Fox (94 U. S., 315), Mager *v.* Grima (8 Howard, 490), and so forth.

With the consent of the Senate, I submit a record of the inheritance tax of the British Empire, the German Empire, and of the German Independent States; and, without objection, I will print in the RECORD these tables without reading them.

THE PRACTICE SUSTAINED BY FOREIGN COUNTRIES.

D. Max West, in his work on Inheritance Tax, fully sets forth the practice of every nation in this regard. I freely quote from his work and call attention of the country to it.

England has adopted the progressive inheritance tax, reaching as far as 15 per cent on great estates.

Inheritance tax of the British Empire:

In the finance act of 1894 (57 and 58 Vict., chap. 30) Sir Vernon Harcourt simplified the system of death duties, removed the more glaring anomalies, and greatly extended the application of the progressive principle. For the old probate, account, and estate duties he substituted a new estate duty graduated according to the size of the estate, real and personal, from 1 to 8 per cent, as follows:

When the principal value of the estate—
Exceeds £100 and does not exceed £300, 30 shillings.
Exceeds £300 and does not exceed £500, 50 shillings.
Exceeds £500 and does not exceed £1,000, 2 per cent.
Exceeds £1,000 and does not exceed £10,000, 3 per cent.
Exceeds £10,000 and does not exceed £25,000, 4 per cent.
Exceeds £25,000 and does not exceed £50,000, 4½ per cent.
Exceeds £50,000 and does not exceed £75,000, 5 per cent.
Exceeds £75,000 and does not exceed £100,000, 5½ per cent.
Exceeds £100,000 and does not exceed £150,000, 6 per cent.
Exceeds £150,000 and does not exceed £250,000, 6½ per cent.
Exceeds £250,000 and does not exceed £500,000, 7 per cent.
Exceeds £500,000 and does not exceed £1,000,000, 7½ per cent.
Exceeds £1,000,000, 8 per cent.

By the finance act of 1907 the estate duty on estates exceeding £150,000 was increased to the following scale:

When the principal value of the estate—
Exceeds £150,000 and does not exceed £250,000, 7 per cent.
Exceeds £250,000 and does not exceed £500,000, 8 per cent.
Exceeds £500,000 and does not exceed £750,000, 9 per cent.
Exceeds £750,000 and does not exceed £1,000,000, 10 per cent.
Exceeds £1,000,000 and does not exceed £1,500,000, 10 per cent on the first £1,000,000, 11 per cent on the remainder.
Exceeds £1,500,000 and does not exceed £2,000,000, 10 per cent on the first £1,000,000, 12 per cent on the remainder.
Exceeds £2,000,000 and does not exceed £2,500,000, 10 per cent on the first £1,000,000, 13 per cent on the remainder.
Exceeds £2,500,000 and does not exceed £3,000,000, 10 per cent on the first £1,000,000, 14 per cent on the remainder.
Exceeds £3,000,000, 15 per cent on the remainder.

In addition to this estate duty, calculated on the value of the estate as a whole, collateral heirs still have to pay legacy duty on their legacies or distributive shares of personal property, and succession duty on the corresponding shares of real estate and on leaseholds, settled personalty, and legacies charged on land, which are not subject to legacy duty, according to the following consanguinity scale:

	Per cent.
Brothers and sisters and their descendants	3
Uncles and aunts and their descendants	5
Great uncles and great aunts and their descendants	6
Other persons	10

The German Empire has a similar system, imposing the following imperial inheritance tax.

	Per cent.
Parents, brothers, and sisters, and their children	4
Grandparents and more distant ancestors, parents-in-law and step-parents, children-in-law and stepchildren, grandnephews and grandnieces, illegitimate children acknowledged by the fathers and their offspring, adopted children and their offspring	6
Brothers and sisters of parents and relatives by marriage in the second degree in collateral lines	8
In other cases	10

The tax is progressive, the rates given above being increased in the case of inheritance over 20,000 marks by one-tenth; for each further sum, at first of 20,000 or 25,000 marks and afterwards of 50,000 or 100,000 marks. For amounts over 1,000,000 marks the tax is levied at two and one-half times the basic rates, making the maximum rate 25 per cent. In the case of the immediate relatives, subject to the 4 per cent rate, the progression applies only when the value of the inheritance is more than 50,000 marks. On large amounts the German tax is considerably heavier than the French, because the progressive rates apply to the entire amount of the inheritance, not merely to their respective fractions; but when an inheritance is valued at a sum slightly in excess of that to which a lower rate applies, the higher rate will be collected only in so far as it can be paid out of half the amount by which the inheritance exceeds the preceding class limit.

Besides this, the German independent States also have a progressive inheritance tax, according to degree of consanguinity, as well as a progressive rate.

Rates of German inheritance taxes in force January 1, 1906.

	Alsace-Lorraine.	Anhalt.	Baden.	Bavaria.	Bremen.	Brunswick.	Hamburg.	Hesse.	Lippe.	Lubeck.	Mecklenburg-Schwerin.	Oldenburg.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Husband or wife	[a]3				[b]2–3					[b]2–4		
Children	1				2–3		2–4			2–4		
Other descendants	1				2–3		4–8			4–8		
Adopted children	1	4–6	([c])		[d]5–7½	2½	6-12	5	3	6-12	1	4
Stepchildren	9	6–9	6	4	5–7½	2½	4–8	8	3	6-12	2	4
Parents	1		1	[e]4	5–7½		6-12	[f]5		6-12		
Grandparents, etc	1		1–2	[e]6	5–7½		6–12	5		6-12		
Stepparents	9	6–9	6	4		2½		8	6	6-12	4	7
Children-in-law	9	6–9	6	4	5–7½	2½	4–8	8	3	6-12	3	4
Brothers and sisters	6.5	4–6	3–4	4	5–7½	2½	6-12	[d]5	3	6-12	1	4
Nephews and nieces	6.5	4–6	3–4	6	5–7½	2½	8-16	5	3	8-16	2	4
Uncles and aunts	6.5	6–9	6	6	10-15	5	8-16	8	6	8-16	3	7
Grandnephews, grandnieces	7	4–6	3–4	6	10-15	2½	10-20	8	6	10-20	3	7
Great uncles, great aunts	7	8-12	6	6	10-15	5	10-20	10	6	10-20	6	7
Cousins-german	7	8-12	6	6	10-15	5	10-20	10	6	10-20	3	7
Great-grandnephews and nieces	8	10-15	3–4	8	10-15	2½	10-20	10	6	10-20	6	7
Great-great uncles and aunts	8	10-15	10	8	10-15	5	10-20	10	6	10-20	6	7
Relatives of the sixth degree	8	10-15	10	8	10-15	5	10-20	10	10	10-20	6	10
More distant relatives and strangers	9	10-15	10	8	10-15	5	10-20	10	10	10-20	8	10

	Prussia.	Reuss (elder line).	Reuss (younger line).	Saxe-Altenburg.	Saxe-Coburg.	Saxe-Gotha.	Saxe-Meiningen.	Saxe-Weimar.	Saxony.	Schaumburg-Lippe.	Schwarzburg-Rudolstadt.	Schwarzburg-Sondershausen.	Wurttemberg.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Husband or wife		[b]3											
Children													
Other descendants													
Adopted children	2	3	4–6	6	5	5		4		2	2	5	3
Stepchildren	4	6	8-12	6	6	8	6	6	3	4	8	5	3
Parents			2–3	([f])		[g]2							2
Grandparents, etc			3–4½	4		[g]2							3
Stepparents	4	6	8-12	6	6	8	6	6	4	4	8	5	4
Children-in-law	4	6	8-12	6	6	8	6	6	3	4	8	5	3
Brothers and sisters	2	3	4–6	4	5	5	4	4	2	4	2	4	2
Nephews and nieces	2	3	6–9	4	6	6	4	4	3	4	4	5	3
Uncles and aunts	4	6	8-12	5	6	8	6	6	4	4	8	5	4
Grandnephews, grandnieces	2	6	8-12	4	6	8	4	4	4	4	8	5	4
Great uncles, great aunts	4	6	8-12	5	6	8	6	6	8	4	8	8	6
Cousins-german	4	6	8-12	5	6	8	6	6	6	4	8	8	6
Great-grandnephews and nieces	2	6	8-12	4	8	10	4	4	8	4	8	5	8
Great-great uncles and aunts	4	6	8-12	5	8	10	9	6	8	4	8	8	8
Relatives of the sixth degree	4	6	8-12	5	8	10	9	6	8	4	8	8	8
More distant relatives and strangers	8	8	10-15	[h]6	8	10	9	8	8	8	8	8	8

[a] Only 1 per cent of offspring also inherit.
[b] Exempt if with issue.
[c] Not exempt if children are excluded.
[d] Unless children are excluded.
[e] Exempt on 1,000 M. and on 20 per cent of the excess.
[f] Exempt on the interstate portion.
[g] Exempt on the compulsory share (one-half the interstate portion).
[h] Relatives, 5 per cent on the interstate portion.

Progressive rates are a recent development in Germany. Schaumberg-Lippe had a slightly progressive collateral-inheritance tax as early as 1811, but the maximum rate was only 3 per cent, and the progressive feature was omitted from the law of 1880. The recent progressive movement began in a small way in Baden in 1899, grandparents being taxed 2 per cent instead of 1 when the amount exceeded 5,000 marks, and certain collateral relatives 4 per cent instead of 3 on amounts over 3,000 marks. More complete applications of the progressive principle were made by Hamburg and Lubeck in 1903, by Bremen in 1904, and by Anhalt and Reuss (younger line) in 1905, the rate on all inheritances of more than 50,000 marks being subjected to additions of 5 or 10 per cent for each 50,000 or 100,000 marks, up to a maximum of one and one-half or two times the basic rate.

In most of the States gifts inter vivos were taxed like inheritances, but in some cases they were taxable only when made in contemplation of death or when formally authenticated.

Bavaria has the beginning of a tax on corporations as a substitute for the inheritance tax; the real estate of juristic persons, except charitable and religious institutions, is subject to a tax of 1 per cent once in twenty years.

France in like manner has a progressive inheritance tax, changing in accordance with the degree of consanguinity, as shown by the following table:

	1 to 2,000 francs.	2,001 to 10,000 francs.	10,001 to 50,000 francs.	50,001 to 100,000 francs.	100,001 to 250,000 francs.	250,001 to 500,000 francs.	500,001 to 1,000,000 francs.	Over 1,000,000 francs.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Direct line	1.00	1.25	1.50	1.75	2.00	2.50	2.50	2.50
Husband or wife	3.75	4.00	4.50	5.00	5.50	6.00	6.50	7.00
Brothers and sisters	8.50	9.00	9.50	10.00	10.50	11.00	11.50	12.00
Uncles and aunts, nephews and nieces	10.00	10.50	11.00	11.50	12.00	12.50	13.00	13.50
Great uncles and great aunts, grandnephews and grandnieces, cousins-german	12.00	12.50	13.00	13.50	14.00	14.50	15.00	15.50
Relatives of the fifth and sixth degrees	14.00	14.50	15.00	15.50	16.00	16.50	17.00	17.50
Relatives beyond the sixth degree and strangers in blood	15.00	15.50	16.00	16.50	17.00	17.50	18.00	18.50

	1,000,001 to 2,000,000 francs.	2,000,001 to 5,000,000 francs.	5,000,001 to 10,000,000 francs.	10,000,001 to 50,000,000 francs.	Over 50,000,000 francs.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Direct line	3.00	3.50	4.00	4.50	5.00
Husband or wife	7.00	7.50	8.00	8.50	9.00
Brothers and sisters	12.00	12.50	13.00	13.50	14.00
Uncles and aunts, nephews and nieces	13.50	14.00	14.50	15.00	15.50
Great uncles and great aunts, grandnephews and grandnieces, cousins-german	15.50	16.00	16.50	17.00	17.50
Relatives of the fifth and sixth degrees	17.50	18.00	18.50	19.00	19.50
Relatives beyond the sixth degree and strangers in blood	18.50	19.00	19.50	20.00	20.50

Switzerland in like manner has the progressive inheritance tax, a full account of which will be found on page 41, West, Inheritance Tax.

In the Netherlands; Austria-Hungary; Italy; Russia; the Scandinavian countries, Norway, Sweden, and Denmark; Belgium; Spain; Portugal; Greece; Roumania; Bulgaria; and in Spanish America, Uruguay, Chile, Brazil, Argentina, Guatemala, and Mexico, and Japan this system prevails.

In Australasia they have heavy, progressive taxes imposed, not for the financial consideration alone, but *also for the purpose of breaking up large estates*, rising to 10 per cent in Victoria, New South Wales, South Australia, and Western Australia; 13 per cent in New Zealand; and to 20 per cent in Queensland.

Mr. President, some time ago I called the attention of the Senate to the fact that the mortality tables of Australia, and particularly of New Zealand, show that they do not have much more than half the death rate we have in this country; and it is directly due to the more equal distribution of wealth and the better opportunity of life afforded to the man who toils.

Sir Charles Dilke, in Problems of Greater Britain, part 6, chapter 1, declares that the institution of private property has not been weakened nor capital driven from the colonies by these progressive taxes. The Cape of Good Hope, Cape Colony, has like duties. Seven of the principal colonies of Canada have succession duties with elaborate progressive scales: Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, Prince Edward Island, and British Columbia.

INHERITANCE TAX IN THE UNITED STATES.

The inheritance tax has been recognized in the United States by the act of July 6, 1797; by the war-revenue act of July 1, 1862; by the act of June 30, 1864; by the act of April, 1898.

This law was repealed April 12, 1902 (32 U. S. Stats., 92).

The receipts from the inheritance tax of 1898 are shown in the following table:

Fiscal year.	Receipts.	Percentage of internal revenue.
1898–99	$1,235,435.25	0.452
1899–1900	2,884,401.55	.977
1900–1901	5,211,898.68	1.698
1901–2	4,842,966.52	1.781
1902–3	5,356,774.90	2.322
1903–4	2,072,132.12	----------
1904–5	774,354.59	----------
1905–6	142,148.22	----------

American inheritance-tax laws, by States.

State.	Collateral.		Direct.	
	Rates.	Exemption.	Rates.	Exemption.
	Per cent.		*Per cent.*	
Arkansas	5			
California	1½-15	$500-$2,000	1-3	[a] $4,000
Colorado	3-6	500	2	10,000
Connecticut	3	10,000	1-2	10,000
Delaware [b]	5	500		
Idaho	1½-15	500-2,000	1-3	4,000
Illinois	2-6	500-2,000	1	20,000
Iowa	5	1,000		
Kentucky	5	500		
Louisiana [c]	5		2	10,000
Maine	4	500		
Maryland	2½	500		
Massachusetts	3-5	1,000	1-2	10,000
Michigan	5	100	[d] 1	2,000
Minnesota	1½-5	10,000	1½-5	10,000
Missouri	5			
Montana	5	500	[d] 1	7,500
Nebraska	2-6	500-2,000	1	10,000
New Hampshire	5			
New Jersey	5	500		
New York	5	500	1	10,000
North Carolina	1½-15	2,000	3-4	2,000
North Dakota	2	25,000		
Ohio	5	200		
Oregon	2-6	500-2,000	1	[e] 5,000
Pennsylvania	5	250		
South Dakota	2-10	100-500	1	5,000
Tennessee	5	250		
Texas	2-12	500-2,000		
Utah	5	10,000	5	10,000
Vermont	5			
Virginia	5			
Washington	3-12		1	10,000
West Virginia	3-7½		1	20,000
Wisconsin	1½-15	100-500	1-3	[a] 2,000
Wyoming	5	500	2	[f] 10,000

[a] Widows and (except in Wisconsin) minor children taxable only on the excess above $10,000 received by each.
[b] Tax payable only by strangers in blood.
[c] Tax not payable when the property bore its just proportion of taxes prior to the owner's death.
[d] Applies to personal property only.
[e] Decedents' estates of less than $10,000 are also exempt.
[f] For the surviving husband or wife and children, if residents of Wyoming, $25,000.

NEED OF FEDERAL LAW TO PREVENT EVASION.

I call the attention of the Senate to this important fact in considering this matter, that whenever a fortune grows very large the owner of that fortune can easily transfer his residence from a State which has an inheritance-tax law to a State which has no inheritance-tax law, and in that manner evade it. For that reason it is of the highest importance that the Federal Government should lay its hand upon the inheritance tax and upon the gigantic fortunes which are built up under our system of laws permitting monopoly to grow and flourish in this country, so that, at the death of the ambitious individual who has profited by our system, the people of the United States may have restored to them that which has been created by their labor.

Mr. President, I have no idea whatever that the amendment which I have the honor to propose will receive respectful consideration now; I do not offer it with any such view. I offer it because I desire the people of the United States to consider it, not because I expect the Finance Committee to consider it. This provision, if adopted by the people of the United States, will provide an enormous amount—not tens of millions, but hundreds of millions—that ought to go back to the people of the United States; and with that fund we could then have available a supply sufficient to improve the roads of the United States from the Atlantic to the Pacific, to improve the waterways of the United States and make transportation cheap, so that the tremendous outflow of the wealth of the people of the United States and their products might find an easy pathway to the sea and to the commerce of the world.

When this policy shall have been adopted by the people of the United States, it will check the very dangerous accumulations of gigantic fortunes which now comprise a serious menace to the people of the United States. Where a single fortune reaches a thousand millions and an annual income of fifty millions, increasing, as it must, in compounding geometric ratio and being typical, it is obvious that such an unequal distribution of the proceeds of human labor is not only unjust, unwise, but is dangerous to the peace and stability of the world.

Fifty millions of annual accumulations in one hand means the deprivation of many millions of people of a part of their slender earnings, and the accumulated force of all the demands of all of the great fortunes of the country, with their total exactions, means the impoverishment of the weaker elements of society by artificial exactions, depriving them of their reasonable opportunity to the enjoyment of life, of liberty, of the pursuit of happiness, and of the enjoyment of the fruits of their own industry.

Monopoly and plutocracy have more power in this Republic than they have in the kingdoms of Europe, where duties on inheritances universally prevail.

If the managers of this bill strike out the inheritance tax on any pretense whatever, I shall certainly regard it as a temporary triumph of selfishness over the influence of patriotism and righteousness. It will be impossible to prevent for a great while the imposition of inheritance taxes, first, because it is right; second, because the judgment and the conscience of the American people, with their increasing intelligence, will not sustain the party now in power in such a gross lack of its obvious duty—a duty earnestly recommended by the President of the United States in his message of December 3, 1906, and approved by such men as the noble-hearted Andrew Carnegie, who, in 1889, wisely said:

> By taxing estates heavily at death the state marks its condemnation of the selfish millionaire's unworthy life. It is desirable that nations should go much further in this direction. Indeed, it is difficult to set bounds to the share of a rich man's estate which should go at his death to the public through the agency of the state.

He also said:

> There are exceptions to all rules, but not more exceptions, we think, to this rule than to rules generally, that the "almighty dollar" bequeathed to children is an "almighty curse." No man has a right to handicap his son with such a burden as great wealth.

He also said:

> This policy would work powerfully to induce the rich man to attend to the administration of wealth during his life, which is the end that society should always have in view, as being by far the most fruitful for the people. Nor need it be feared that this policy would sap the root of enterprise and render men less anxious to accumulate, for, to the class whose ambition it is to leave great fortunes and be talked about after their death, it will attract even more attention, and, indeed, be a somewhat nobler ambition, to have enormous sums paid over to the state from their fortunes.

Mr. President, I sincerely hope that the managers of this bill will do themselves the credit, and the Republican party the honor, to put into this bill a substantial progressive inheritance tax, even if they do not approve the form of the amendment I have the honor to propose.

Mr. President, I submit a table of the proceeds of the inheritance taxes in the United States, and also in the several States.

PROCEEDS OF INHERITANCE TAXES IN THE UNITED STATES.

The inheritance taxes paid in the various States now amount to about $10,000,000 a year. Below are shown the receipts from this source for four years past:

Proceeds of state inheritance taxes, 1902–1906, in comparison with the estimated true value of taxable wealth in each State, 1904.

[In most cases the receipts reported are net receipts exclusive of commissions, etc.]

State.	Taxable wealth, 1904 (millions).	Inheritance-tax receipts.			
		1902–3.	1903–4.	1904–5.	1905–6.
Arkansas	$781	$1,605	$66	$755	$850
California	3,881	[a] 285,868	[a] 286,561	[a] 532,713	[a] 292,705
Colorado	1,101	[b] 5,960	[b] 5,961	[b] 48,646	[b] 48,647
Connecticut	1,317	249,730	265,781	284,117	274,259
Delaware	221	1,618	3,272	3,102	----------
Illinois	8,534	[b] 460,857	[b] 460,858	[b] 688,312	[b] 688,312
Iowa	3,943	[b] 117,333	[b] 141,721	[b] 141,722	190,748
Louisiana	980	----------	10,694	57,001	86,655
Maine	749	31,227	73,899	69,076	70,534
Maryland	1,417	67,115	91,559	76,665	107,820
Massachusetts	4,533	506,147	562,193	694,181	712,720
Michigan	3,149	[a] 163,572	[a] 181,539	187,036	289,025
Minnesota	3,229	3,422	----------	----------	159,455
Missouri	3,598	142,564	122,080	305,551	213,131
Montana [c]	636	[b] 8,506	[b] 8,506	[b] 6,028	[b] 6,038
Nebraska	1,949	[b] 2,804	[b] 2,805	[b] 2,120	[b] 2,120
New Hampshire	493	----------	----------	----------	3,277
New Jersey	3,022	138,932	438,635	202,668	200,780
New York	13,440	4,665,736	5,428,052	4,627,051	4,713,311
North Carolina	812	----------	16,000	5,324	4,673
Ohio [c]	5,693	39,276	78,209	406,744	124,457
Oregon	766	----------	6,826	23,192	15,290
Pennsylvania	10,814	1,300,835	1,080,578	1,677,185	1,507,962
South Dakota	629	----------	----------	----------	1,450
Tennessee	1,058	[b] 56,007	[b] 56,007	[b] 34,310	[b] 34,310
Utah	407	44,144	39,393	9,971	39,889
Vermont	342	29,440	37,227	41,058	40,581
Virginia	1,235	19,612	12,797	20,215	28,742
Washington	986	8,292	25,774	[b] 33,267	[b] 33,268
West Virginia	814	1,367	6,443	10,495	26,052
Wisconsin	2,734	----------	4,320	125,965	103,917
Wyoming	256	----------	----------	[b] 4,373	[b] 4,373

[a] Refunds deducted.
[b] One-half the receipts for two years.
[c] The figures here given represent the States share only; that is, in the case of Montana, three-fifths of the total receipts; and in the case of Ohio, three-fourths of the net receipts.

The following table shows the receipts from the national tax on legacies and distributive shares of personal property during the two fiscal years when it was most fully in operation, in comparison with the estimated value of all personal property in each State or collection district:

Proceeds of the national tax on legacies and distributive shares of personal property, 1900–1902, in comparison with the estimated true value of personal property, 1900.

State.	Value of personal property, 1900 [a] (millions).	Legacy-tax receipts.	
		1900–1901.	1901–2.
Alabama	$401	$1,353.10	$5,935.90
Arkansas	296	----------	2,062.21
California and Nevada	1,235	88,518.41	61,497.39
Colorado and Wyoming	596	2,083.26	7,748.33
Connecticut and Rhode Island	704	358,954.73	641,096.10
Florida	168	282.27	----------
Georgia	453	3,144.68	24,812.96
Hawaii	----------	5,303.76	1,051.56
Illinois	2,711	345,636.55	325,964.84
Indiana	1,106	9,355.47	19,194.24
Iowa	1,316	19,533.59	44,274.50
Kansas, Oklahoma, and Indian Territory	1,278	6,964.17	107.20
Kentucky	569	12,934.06	13,350.17
Louisiana and Mississippi	$703	$20,186.62	$20,076.69
Maryland, Delaware, and District of Columbia	759	[b] 217,581.10	[b] 99,417.05
Massachusetts	1,442	452,944.61	559,296.97
Michigan	1,035	66,498.47	67,780.66
Minnesota	1,056	17,961.27	23,147.10
Missouri	1,243	78,078.32	91,011.72
Montana, Idaho, and Utah	665	2,843.40	162,744.19
Nebraska	751	1,732.90	10,547.10
New Hampshire, Maine, and Vermont	652	67,813.64	114,115.15
New Jersey	1,107	295,935.17	79,861.37
New Mexico and Arizona	254	455.71	660.55
New York	4,533	2,314,425.51	1,608,843.83
North Carolina	343	2,577.13	3,215.10
North and South Dakota	500	(c)	83.93
Ohio	2,100	175,067.92	69,321.70
Oregon and Washington	602	[d] 141.21	[d] 6,641.72
Pennsylvania	3,917	571,019.10	660,753.94
South Carolina	247	2,780.25	6,793.95
Tennessee	445	6,395.58	7,383.18
Texas	1,013	18,264.77	18,643.32
Virginia	508	8,373.08	15,791.19
West Virginia	326	2,865.09	10,564.64
Wisconsin	943	33,890.78	62,176.07
Total	35,980	5,211,898.68	4,842,966.52

[a] Including stocks and bonds of railroads, etc.
[b] Including Accomac and Northampton counties, Va.
[c] Included with Nebraska.
[d] Including Alaska.

Mr. President, these tables show what a small inheritance tax will do, and I call attention to the fact that the state taxes on inheritances are very small and the tax runs to small estates, which I do not think at all desirable as far as a federal inheritance tax is concerned. The federal tax—inheritance tax—in my judgment, should be confined to large estates and should be made progressive, so as to abolish the present skillful evasion of the constitutional law laid down by our ancestors against the rule of primogeniture and entail.

ENTAIL AND PRIMOGENITURE.

Mr. President, it is contrary to the welfare of the human race to permit estates in perpetuity, and it is against the spirit of the common law and it is against the constitutional rule everywhere in force in our Republic forbidding primogeniture and entail.

The rule of primogeniture is so well understood that no man would be so imprudent as to attempt to leave his estate subject to such a will. And the law of entail is equally well understood, but it is in recent years avoided in various ingenious ways.

For example, by placing the property in trust; by incorporating estates and placing the stock in the hands of trustees, the corporation itself having a perpetual life. By the perpetual life of corporations has grown up a method of evading the wise spirit of the rule forbidding primogeniture and forbidding the accumulation of vast properties in a single hand. In my judgment there should be no apologetical treatment of this matter.

The accumulation of gigantic fortunes in a single hand, with the huge power of increase where the income can not be consumed, is dangerous to the commercial liberties of the people; and because dangerous to commercial liberties of the people it is dangerous to the political and civil liberty of the people.

Mr. ALDRICH. Do I understand that the Senator from Oklahoma has offered an amendment?

The VICE-PRESIDENT. No; the Senator from Oklahoma has not offered an amendment.

Mr. CUMMINS rose.

Mr. BORAH. Mr. President, I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Chamberlain	Flint	Owen
Bacon	Clapp	Gallinger	Page
Beveridge	Clark, Wyo.	Gamble	Penrose
Borah	Crane	Guggenheim	Piles
Bourne	Crawford	Johnson, N. Dak.	Root
Brandegee	Cullom	Jones	Scott
Briggs	Cummins	Kean	Simmons
Bristow	Curtis	La Follette	Smith, Mich.
Brown	Daniel	McCumber	Smoot
Bulkeley	Davis	McLaurin	Warren
Burkett	Dick	Nelson	Wetmore
Burrows	Dillingham	Newlands	
Burton	du Pont	Oliver	
Carter	Fletcher	Overman	

Mr. CURTIS. The junior Senator from Missouri [Mr. WARNER] requested me to announce that he is unavoidably detained from the Senate this afternoon.

The VICE-PRESIDENT. Fifty-three Senators have answered to the roll call. A quorum of the Senate is present.

Mr. CUMMINS. Mr. President, I am sure that no Senator can be more conscious than I am of the unfortunate conditions which surround us, and particularly which surround me, as I enter upon the consideration of the subject before the Senate. It is late in the afternoon; Senators have been in continuous attendance now for seven and a half hours. We are at the end of a long and weary debate upon subjects that have not always been interesting. We are jaded not only in body, but in mind as well. We are suffering with excessive heat; and I discover a sort of half-sullen indifference that does not bode well for one who attempts to engage the attention of the Senators upon questions so serious and difficult. I would gladly defer until to-morrow morning, if it were possible, what I have to say upon this subject; but inasmuch as the hour appointed for adjournment has not yet arrived, and as I would rather suffer the discomfort of entering upon my address and of inflicting upon you the tortures of it than to allow the amendment to be voted upon without further remark, I intend between now and 7 o'clock to submit as slowly, as calmly, and as deliberately as I can some observations with regard to the proposed income-tax law.

I know that you will forgive me if I endeavor to postpone what I have most at heart to say upon this matter until to-morrow. There are some things, however, that I can say as well this afternoon as at any other time.

Until within a few days ago the issue was, Shall the present Congress adopt any income-tax amendment? And upon that issue

my distinguished colleagues the Senator from Texas [Mr. BAILEY], the Senator from Idaho [Mr. BORAH], and the Senator from Utah [Mr. SUTHERLAND] have said substantially all that can be said, and they have said it so well that I despair of imitating their excellence. But in the twinkling of an eye the issue before the Congress was changed. It is not now "shall an income tax be added to the revenue bill under consideration;" it is rather what kind of an income-tax law shall be added to the bill.

The Senator from Texas and myself offered early in the session, within a very few hours, indeed, after the Finance Committee had reported the bill which we have so long debated, proposed amendments. There was no substantial difference between them, although they had their varying characteristics. These amendments proposed to levy a tax, I care not whether you call it an excise tax, a duty, or what not, I prefer the generic term "tax." We proposed to levy a tax upon all incomes, whether corporate or whether individual, above $5,000. Upon the question growing out of such a proposition we have debated from time to time the propriety, the wisdom, and the constitutionality of such a law.

But that is not now so much the question before the Senate as is the proposition, Shall we substitute for an income tax, bearing equally upon all persons and all corporations enjoying an income of more than $5,000, another sort of income tax—and I give it my own name, and I shall endeavor to sustain its title to that name before I have finished. The proposition now is, Shall we levy an income tax upon the stockholders of all corporations for pecuniary profit, without respect or regard to the extent of the income earned or enjoyed by those stockholders; and shall we levy an income tax upon the members of other corporations doing an insurance business, an income tax or a tax upon the premiums and other sources of income, and that without regard to the extent of the income possessed, earned, or enjoyed by the members of those corporations?

The issue, Senators, is plain and simple. I do not intend to hide behind any technicalities. I do not intend to be disturbed by mere names. I intend, if I can, to penetrate to the very heart of the thing; and I want to begin what I have to say by making it clear that the income-tax amendment proposed by the Senator from Texas [Mr. BAILEY] and myself rests as a burden only upon those natural and artificial persons with incomes of more than $5,000; but the income tax presented by the Finance Committee, and explained so clearly by the Senator from California [Mr. FLINT], rests upon the incomes of all the stockholders of our corporations, whether such stockholders be rich or poor, with little or great incomes, and upon many members of insurance companies, without regard to their ability to bear these additional burdens.

I do not shrink from the issue, although I confront it with more regret than I ever before experienced in taking up for discussion a public question. I do not blind my eyes to the fact that I am opposing the recommendation of the President of the United States. I do not shrink from acknowledging that I am refusing, in what I have to say and in what I shall do, to carry out the suggestions that he has so recently made. Do not misunderstand me. I am not admitting, nor shall I for a moment admit, that the amendment reported by the committee is in consonance with the message laid before Congress by the President. It is not a faithful and complete reproduction of his recommendation, but that does not change the general situation. He has recommended the passage of a law which shall impose a tax upon corporations alone, and I am opposed to that proposition—unalterably opposed to it, and therein lies my regret. I find no pleasure in differing from the President of the United States. I have the deepest respect for the high office he holds, and I have unlimited and profound admiration for and confidence in the character of the man. I have attempted to receive his recommendation with all the weight to which a message from such a source is entitled.

Mark you, I am not criticising the President of the United States for communicating his views upon this subject to Congress. He was quite within his privilege; he exercised but his constitutional right in expressing to Congress his opinion upon this matter of public concern, and I have received it, and I hope every Senator has received it, with the profoundest respect, and has given it all the consideration which the importance of the subject it touches and the high station and great abilities of the man who wrote it can command; but there I am compelled to stop. Recognizing the right of the President to communicate with Congress upon such a subject, I do not recognize his right, nor do I believe that any Senator will recognize his right, to command convictions. It is for him to recommend. It is for us to decide.

This subject is one which, as suggested by the Senator from Montana, will be discussed at every fireside. It is one which will fill the minds of the people from now until the moment they have an opportunity to express their judgment upon it. It is one which vitally touches one of the most important prerogatives of the Government; and it is for every Senator to act upon it in exact accordance with his own conscience and his own judgment.

The message of the President is entitled to just that weight that its reason compels for it. I would allow—I would gladly allow—the scales to tip in favor of the judgment expressed by the President, if I could; but I have an abiding conviction that somewhere and somehow that great patriotic mind of his has failed to comprehend this question in its entirety, and I, with entire respect for him, continuing the affection I hold for him as a man, intend to speak and to vote as I believe to be right. I will not follow him or any other man to a conclusion that I believe to be wrong, and therefore I intend to examine the question just as carefully as I can. I begin with the proposition that the tax proposed by the amendment now offered by the committee is fundamentally wrong. It is vitally wrong. It repudiates not only our unerring instinct with regard to taxation, but it violates and contravenes the most sacred traditions of the American people with respect to taxation. There is one thing that we have always held high, one principle we have always elevated above every other in taxation, and that is that it must be fair and equal, and as uniform as practicable under existing circumstances.

This tax proposed by the committee is not fair; it is not equal; it does not distribute the burdens of government as they ought to be distributed; it does not put upon the shoulders of those who can best bear the weight of this great structure; but, without any regard to ability to pay or bear, it puts the burden on a certain class of men, namely, those who have invested their capital in the stock of corporations.

I know it has been said that a general income tax such as is proposed in the amendment offered by the Senator from Texas [Mr. BAILEY], and to which I have contributed some part, is unconstitutional. I will enter that inquiry presently. All that I care to say about it now is that the proposition submitted by the Finance Committee is subject to all the constitutional objections which have been urged against the amendment proposed by the Senator from Texas and myself; and under a possible interpretation it has one constitutional objection peculiar to itself, an objection which may be fatal to it, even though—and I have no doubt that that event will occur—even though the next decision of the Supreme Court entirely annihilates the opinion in the Pollock case. There is an invalidity, there is a weakness, there is a defect in the amendment proposed by the committee which will render it futile as an instrument for the collection of revenue; and I will endeavor, as time goes on, to lay that defect clearly before the Senate.

But, prior to all these things, I recur to a statement that I made when I originally introduced the amendment which I proposed, namely, that it would be folly for the Congress of the United States to arrange for any additional revenue, either through the instrumentality of an income tax, an inheritance tax, a stamp tax, or any other tax, unless we need the money; and the instrument or medium that we should employ ought to have some relation to the amount of money that we need. I would be the last Senator to vote for a law that would raise $80,000,000 if we only needed $25,000,000; I would be the last Senator to vote for a law that would raise $25,000,000 if we needed none to supplement the revenue from our tariff schedules.

I think, therefore, in developing the subject logically, I ought to give some attention to the study of our finances, and I am very glad that I am honored with the presence of the Senator from Rhode Island [Mr. ALDRICH] because, if I go astray in this maze—I do not mean it is a maze to him, but it is a maze to a novice like myself—I know he will correct me. I understand perfectly that the revenues and expenditures of the Government in the future can not be stated with absolute precision. Necessarily we must exercise our most mature judgment in reaching conclusions respecting these things; but I shall endeavor to be so conservative as to be always on the safe side. I shall take the two years immediately before us—that is, the fiscal year ending June 30, 1910, and the fiscal year ending June 30, 1911. With respect to the first, the expenditures have already been determined.

We appropriated during the last session $1,044,401,857.12 to carry on the affairs of the Government for the year ending June 30, 1910. This sum, however, vast as it is, does not represent

quite all the obligations that we assumed in the last session. To this sum must be added $26,080,875 not specifically appropriated, but for which contracts were authorized, which are the equivalent of an appropriation, making a total of $1,070,482,732.12.

Mr. ALDRICH. What were the contracts for?

Mr. CUMMINS. I do not know.

Mr. ALDRICH. I assume that they were for work upon rivers and harbors and other public works of a similar kind. Those contracts, running, as they do, from year to year, have always balanced one year after another and, I think, have never been taken into consideration in considering the expenditures of the Government.

Mr. CUMMINS. Mr. President, my information comes from a report of the Secretary of the Treasury. I should never have known that we incurred these additional obligations had I not read the fact in a report of the Secretary of the Treasury. In this report it is stated, substantially, that to the $1,044,000,000 that were specifically appropriated by the last session there should be added, in order to ascertain the whole expenditure for the coming year, the twenty-six millions to which I have just referred.

Mr. ALDRICH. Mr. President, as I have already stated, those amounts go along from year to year. They are not expended, and can not be, until they are actually appropriated by Congress. So I will say to the Senator what he has probably found out from his own examination—that the expenditures of the Government in any one year have never equaled, or even approximately equaled, the total amount appropriated. For instance, this sum of one billion and forty-four millions can be reduced, by items which are unquestioned, to seven hundred millions.

Mr. NELSON. Will the Senator allow me right there?

Mr. ALDRICH. Certainly.

Mr. NELSON. Were the post-office appropriations included in that?

Mr. ALDRICH. Oh, yes; and several other items, which reduce the appropriations to the amount I have named.

Mr. CUMMINS. Mr. President, I do not question that. I have not forgotten the item of two hundred and thirty-five millions for maintaining the Post-Office Department. But the Senator from Rhode Island, while he is literally correct, is really substantially incorrect, for this reason. I will explain what I mean in a moment; and I have looked a little into it.

Taking the $1,044,000,000 that we appropriated last session, it is quite true that when the 30th of June comes it may not be paid out. But there will be obligations covering it all, no matter whether it is paid out before or after the 30th of June. It will be expended, and it will be expended in addition to any subsequent appropriations in any subsequent year. I am told that that is the uniform history of the Treasury Department; and it is quite natural that it should be so.

As to the $26,000,000 of contracts, it may be true that the money to discharge them will not be required before the 30th of next June. But the money to discharge them will at some time be required; and this part of the expense authorized ought to be reckoned in determining our revenue for the next year, if we intend that our revenue shall equal or exceed our expenditures or our obligations.

Now I proceed:

Inasmuch as Congress may, and, as I think, should, determine to provide for the entire cost of the Panama Canal with the proceeds of bonds, I deduct the $37,000,000 appropriated for that improvement.

I have no right to do that. It is more than conservative. We have appropriated $37,000,000 for expenditure upon the Panama Canal. So far as any legislation now existing is concerned, that must be paid out of the general fund of the Treasury. It is said that we will in the future adopt some legislation that will result in bonding all the expenses connected with the construction of the canal. I do not know that. The Senate can not know it. And, therefore, if one wanted to swell the expenditures for the coming year, he would not deduct the $37,000,000. But inasmuch as I believe before this money is expended Congress will in some way impose it as a burden upon the future, instead of wholly upon the present, I have deducted the $37,000,000. The result is $1,033,482,732.12. And to pay this sum we must levy and collect taxes or receive income from one source or another.

Now I come to meet the suggestion of the Senator from Minnesota [Mr. NELSON].

To simplify the account, I will disregard both the receipts and the disbursements of the Post-Office Department, except the somewhat steady deficiency for which we make appropriation from year to year. I therefore reduce the amount already stated by the appropriation for the Post-Office Department, namely, $234,692,370. There remains a balance of $798,790,362.12 to be paid from custom-house receipts, internal-revenue taxes, and other miscellaneous income.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Will the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. May I just finish this paragraph?

Mr. ALDRICH. Certainly.

Mr. CUMMINS. If the Senator will pardon me, I should like to finish this paragraph before he interrupts.

That is, I think, some $4,000,000 more than it was last year. We can not expect more than $64,000,000 from sales of public lands and other miscellaneous sources. The aggregate of these is $319,000,000, which, being deducted from the sum of our authorized expenditures, leaves $479,790,362.12 to be provided from the customs receipts or through some other method of taxation.

I now yield to the Senator from Rhode Island.

Mr. ALDRICH. Mr. President, I had expected to have some papers here to follow the Senator in the statement he has just been making. But he is evidently in error somewhere to a considerable amount.

The appropriations for the year which closes day after to-morrow were approximately one thousand million dollars, within a few millions of the amount of the appropriations that were made for the next fiscal year. I have before me a statement of the expenditures for this year. It shows an expenditure of $665,600,000 exclusive of the Panama Canal, and $695,000,000 including the Panama Canal. This shows a difference of $300,000,000 for a lot of miscellaneous items, to some of which the Senator from Minnesota has alluded, and a number of other items which are embraced in the statement I made to the Senate three months ago when this discussion commenced. So I can put in the RECORD—and I think I will perhaps to-morrow—a statement of the appropriations and expenditures for a series of years, showing that this difference is a constant difference, and that the expenditures for the year which is just closing are not unusual expenditures, with reference to the appropriations. I myself estimated the expenditures for the next fiscal year at $700,000,000 exclusive of the canal. That estimate is certainly in excess of what has actually happened.

Now, let us look at the revenues. The Senator has placed the receipts from internal revenue and from miscellaneous sources quite high enough; I think too high. But the revenues from customs next year——

Mr. CUMMINS. I have not yet come to that.

Mr. ALDRICH. I think the Senator has stated the internal revenue.

Mr. CUMMINS. I say, I have not reached the discussion of the amount we will receive from custom-houses, although I have no objection whatever to the Senator from Rhode Island anticipating me and saying what he believes those receipts will be.

Mr. ALDRICH. In my judgment, the receipts from customs next year will be $350,000,000. I have no doubt myself that they will reach that sum. This statement is made after a very careful examination of the course of receipts for the last five months. My own judgment at this time is that the deficiency for the next fiscal year will be less than I stated in my opening remarks upon this subject, when I placed it at $45,000,000.

Mr. CUMMINS. Sixty-five millions, was it not?

Mr. ALDRICH. Forty-five, I think.

Mr. GALLINGER. This is for next year.

Mr. ALDRICH. I think it was forty-five.

Mr. CUMMINS. Oh, for next year—yes.

Mr. ALDRICH. I placed the deficiency for this year at $69,000,000.

Mr. CUMMINS. And the President placed it at one hundred millions.

Mr. ALDRICH. Well, the President was mistaken, and I was mistaken to this extent: The actual excess of disbursements over receipts, exclusive of the canal, is $60,600,000. In other words, I placed the deficiency for the current fiscal year $9,000,000 too high. I came within two millions, however—and I am congratulating myself upon the character of that estimate—of the total receipts for the fiscal year. They were within two millions of my estimate.

But the expenditures were ten or eleven millions less than the estimate I made. So that the deficit for the present year, instead of being one hundred millions or sixty-nine millions, is only sixty millions. And I can say, without losing any reputation as a prophet, that the estimate I made of forty-five mil-

lions deficiency for next year is much too high; and with the additional revenue of $15,000,000 which will be raised by the amendments made in the Senate, I shall be very much surprised if there is any deficiency whatever at the close of the fiscal year 1911.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I do.

Mr. BEVERIDGE. Will it be agreeable to the Senator from Iowa if I suggest to the Senator from Rhode Island the advisability of an adjournment at this time?

Mr. ALDRICH. I think the Senator from Iowa will not mind going on and completing this part of his speech.

Mr. BEVERIDGE. I was about to say that the Senator is starting out on what is very clearly to be an exhaustive speech. We have now been in the Senate Chamber, in continuous session, for about eight hours; and it strikes me that it may perhaps serve the convenience of other Senators, as well as that of the Senator from Iowa, if the Senator from Rhode Island will consent to an adjournment at this time.

Mr. ALDRICH. I have not seen any signs of exhaustion on the part of the Senator from Iowa.

Mr. CUMMINS. No.

Mr. ALDRICH. And I am sure there are no signs of inattention or exhaustion on the part of any of the other Senators.

Mr. CUMMINS. It is entirely a matter for Senators to decide. Like the man who sits shivering around an icy stream, I was a little reluctant to plunge in; but now that I am in, it seems to me I am as warm as toast. [Laughter.]

Mr. BEVERIDGE. It will all be, of course, within the discretion of the Senator from Rhode Island.

Mr. ALDRICH. I shall be glad if the Senator will continue until he finishes this part of his speech.

Mr. BEVERIDGE. But it seems to me the Senator from Iowa, who is just beginning what is very clearly to be an exhaustive examination of this subject, should not be compelled to go on with a very important part of it after we have been in session for eight continuous hours in this stifling Chamber. But I simply make the suggestion. That is all I can do. I should like to know what the Senator from Rhode Island thinks about it.

Mr. BURROWS. I understand that the Senator from Iowa desires to proceed.

Mr. BEVERIDGE. Very well, if that is the case.

Mr. CUMMINS. I am very thankful to the Senator from Indiana for the suggestion; but if Senators can endure it, I shall be very glad to finish this phase or division of my argument.

Mr. BEVERIDGE. Very well.

Mr. CUMMINS. In reply to the statement of the Senator from Rhode Island, I will say that seeing is, of course, believing. I do not understand that there has been, over a series of years, any substantial difference between appropriations and expenditures.

I do understand, as to a given year, that there is at the close of the year a very substantial difference between the appropriations for the year and the expenditures that have been made for the year. But if we will wait one year or two years, and then compare the expenditures that were made under the appropriations for the year ending June 30, 1909, I am told that in almost all cases the expenditures will be found to measure up with the appropriations.

Mr. ALDRICH. In that the Senator is very much mistaken; and his informant, whoever he is, did not understand the subject. I think I can convince the Senator very promptly that that can not be so. The gross appropriations, as shown by these statements, include an appropriation of approximately $60,000,000 for the sinking fund, which, in recent years, has not been paid at all. They also include——

Mr. CUMMINS. I hope the Senator will not base any hope of defense upon the failure to keep the sinking fund in condition, because that is one of the criticisms I intend presently to suggest.

Mr. ALDRICH. The sinking fund is a long way ahead of the requirements of law.

Mr. CUMMINS. Mr. President, I beg the pardon of the Senator from Rhode Island; it is a long way behind.

Mr. ALDRICH. In any event, that is a matter of no consequence to the Senator's argument.

Mr. CUMMINS. I have here a letter from the Secretary of the Treasury, which I shall read presently and put into the RECORD. There is a sense in which the Senator from Rhode Island is right.

Mr. ALDRICH. He is right in an absolute sense.

Mr. CUMMINS. But in the better sense, in the sense of obeying the law, the Senator from Rhode Island is wholly wrong. We have, from time to time, been diverting the sinking fund and disregarding the provisions of law with regard to its accumulation.

Mr. ALDRICH. Still, with an indebtedness of a thousand million dollars, I think there are no creditors of the United States who are finding fault because we are not paying out $60,000,000 on account of the sinking fund.

Mr. CUMMINS. Oh, no, Mr. President; but it is a great deal better for the American people to see that their servants obey the law.

Mr. ALDRICH. And I do not believe there is a man in the Senate or in the House of Representatives who would presume to make a motion directing the Secretary of the Treasury to pay out $60,000,000 a year on account of the sinking fund.

Mr. President, I was simply reciting the things that are not properly included in the appropriations. First comes the $60,000,000 of sinking fund; second, the post-office appropriation——

Mr. CUMMINS. I have taken that out.

Mr. ALDRICH. That is $230,000,000, less the deficiency of $20,000,000, which makes $210,000,000. That is a total of $270,000,000. Then there are the appropriations for the bank-note retirement fund, which amount to about thirty or forty millions, and are constant from year to year. The fund is renewed from time to time, and the balance varies only a very little in any of the years.

Mr. CUMMINS. Well, Mr. President——

Mr. ALDRICH. So, if the Senator will excuse me for a second, there is $210,000,000, say; and $60,000,000 more makes $270,000,000, and $30,000,000 more makes $300,000,000. There is $300,000,000 which must be deducted at once from the total gross appropriations; and that deduction must be made every year.

If the Senator will take a statement showing the gross appropriations and expenditures from year to year, he will find that there is at least $300,000,000 difference between the gross appropriations and the actual expenditures for the year. That is what is shown by the statement I have just submitted. It shows that the total expenditures for the present fiscal year are $695,000,000, including the canal, as against total appropriations of a thousand millions—practically seven hundred, as against a thousand.

Mr. CUMMINS. Mr. President, I shall come in a little while to the thirty millions that are connected with the retirement of the national-bank notes. That is money that has been deposited by the national banks in the Treasury and that has not been paid out by the Treasury.

Mr. ALDRICH. Yes.

Mr. CUMMINS. We have appropriated $30,000,000 to enable the Treasury to pay out the very money which these banks have deposited in the Treasury, and that the Treasury has used for some other purpose.

Mr. ALDRICH. In any one year the amount of our deposits is quite as much as the amount of the withdrawals. In fact, in recent years it has been somewhat larger. So the balance is never paid out, and it is not likely to be paid out entirely in any one fiscal year or any number of years.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I do.

Mr. NEWLANDS. I should like to inquire of the Senator from Rhode Island what amount he has included in the expenditures of the next year for river improvements and for public buildings, and to ask him whether in the near future it is not contemplated that the constructive work of the country will be greatly enlarged, and it will be necessary, for that reason, to increase the revenue?

Mr. ALDRICH. In my estimate of expenditures, of course, I took the amounts appropriated. That is the only thing we can take. My recollection is that the appropriation was about $30,000,000 for river and harbor improvements, and somewhere about $20,000,000 for public buildings.

Mr. NEWLANDS. I ask the Senator whether he does not think that amount will be largely increased in the future?

Mr. ALDRICH. Not in this fiscal year, of course, because the appropriations have already been made. That question would apply to some other fiscal year.

Mr. NEWLANDS. That revenue will have to be provided in future for this large constructive work.

Mr. CUMMINS. I will speedily come to that subject, if the Senator from Nevada will allow me. May I return to the figures for a moment, because I named the sum while the Senator from Rhode Island was out of the Chamber getting the report that he has in his hand? I deducted from the appro-

priations $234,692,370, being the post-office appropriations, and there remained $798,790,362.12. The Senator from Rhode Island admits that I have been fair at least to the other side of the argument in estimating the revenue from internal tax at $255,000,000 and other sources at $64,000,000, making a total of $319,000,000; and deducting this from the sum formerly named, we are confronted with $479,790,362.12 to be provided from the customs receipts or through some other method of taxation, or explained away by the suggestion that although we make the appropriation we will not need the money. I will reach that phase of it later.

We are now led to an inquiry with respect to the amount which the present bill will probably raise at the custom-houses. Under the Dingley Act for the last four years there were received as import duties as follows:

For the year 1905, $261,798,857; for the year 1906, $300,251,878; for the year 1907, $332,233,363; for the year 1908, $286,113,130.

I mentioned these receipts simply that we may bear them in mind when we come to estimate the receipts for the coming two years.

The chairman of the Finance Committee has said that upon the imports of 1907 the bill before us, if it had been applied to the imports, would have raised $8,000,000 more than was raised by the existing law, and I accept his judgment as to the comparative efficiency of the two schedules.

Mr. ALDRICH. I should like to modify that.

Mr. CUMMINS. The Senator wants to modify that statement by somewhat increasing the amount?

Mr. ALDRICH. I should say if the bill passes both Houses in the form it now stands in the Senate, we would receive $15,000,000 more of revenue than would be received under the old law in any current year. Taking the estimate of 1907 as a basis, that would give us $347,000,000 of receipts during the next fiscal year. If the bill as it now stands should become a law, I state without the slightest hesitancy that the receipts from customs would exceed $350,000,000 in the next fiscal year.

Mr. CUMMINS. I knew we had raised the duties very often and very high, but I did not suppose that we had produced any such effect as this upon our imports.

Mr. BRISTOW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I do.

Mr. BRISTOW. I suggest the absence of a quorum.

Mr. CUMMINS. I hope very much the Senator will not do that.

Mr. ALDRICH. I am quite willing, if the Senator wishes, to make a motion to adjourn.

Mr. CUMMINS. My remarks are going to be longer than I intended. I expected to complete my remarks this evening.

Mr. ALDRICH. It is quite convenient to me to make the motion.

Mr. CUMMINS. Very well.

Mr. ALDRICH. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 16 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, June 30, 1909, at 10 o'clock a. m.

SENATE.

WEDNESDAY, *June 30, 1909.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. KEAN. I present a telegram in the nature of a petition from the Building and Loan Association League of New Jersey, which I ask may be read.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

ATLANTIC CITY, N. J.,
June 29, 1909.

Hon. JOHN KEAN,
United States Senator, Washington, D. C.:

The Building and Loan Association League of New Jersey, in session this day, resolved that if the corporation act does not exempt building and loan associations from its provisions great injury will be done these thrifty members who are seeking homes out of their wage earnings through the building-society system. We respectfully petition our Senator and Members of Congress to do all in their power to exempt building and loan associations from the provisions of corporation taxes. These societies lend all their funds to home seekers, who not only pay taxes on the homes they buy or build, but they form a community of peace-loving citizens always striving for the public good.

JOSEPH A. MCNAMEE, *President.*

Attest:
HOWARD R. CLOUD, *Secretary.*

Mr. FLINT. Mr. President, I suggest the lack of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and, after some delay, the following Senators answered to their names:

Bacon	Clay	Gore	Perkins
Beveridge	Crawford	Guggenheim	Piles
Borah	Culberson	Hughes	Root
Briggs	Cullom	Johnson, N. Dak.	Scott
Bristow	Cummins	Kean	Simmons
Brown	Curtis	Lodge	Smith, Mich.
Burkett	Davis	McCumber	Smoot
Burrows	Dick	McLaurin	Stone
Carter	Dillingham	Money	Sutherland
Chamberlain	Flint	Nelson	Taliaferro
Clapp	Frye	Oliver	Tillman
Clark, Wyo.	Gallinger	Page	Warner

Mr. BRISTOW. I wish to state that the junior Senator from Washington [Mr. JONES] is detained from the Senate this morning on departmental business.

The VICE-PRESIDENT. Forty-eight Senators have answered to the roll call. A quorum of the Senate is present. Are there further petitions and memorials?

Mr. GUGGENHEIM presented a paper to accompany the bill (S. 2785) granting an increase of pension to Thomas H. Waltemeyer, which was referred to the Committee on Pensions.

He also presented sundry affidavits to accompany the bill (S. 2640) granting an increase of pension to Joseph P. Theobald, which were referred to the Committee on Pensions.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER (by request):

A bill (S. 2799) for the prevention and punishment of cruelty to animals in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

By Mr. GUGGENHEIM:

A bill (S. 2800) granting an increase of pension to Lorin N. Hawkins (with accompanying papers); to the Committee on Pensions.

AMENDMENT TO THE TARIFF BILL.

Mr. DICK submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

SEPARATION OF THE TARIFF BILL.

Mr. GORE submitted the following resolution (S. Res. 62), which was read:

Senate resolution 62.

Resolved, That the Committee on Finance is hereby instructed to arrange and report each separate schedule of the pending bill as a separate, distinct, and complete bill within itself, to the end that every Senator may have the opportunity to vote for or against each of said measures in accordance with his judgment, without being obliged to vote for or against the whole, and to the further end that the President of the United States may be enabled to approve or disapprove each several measure upon its merits, and shall not be forced to the alternative of approving the entire measure as a whole, including what his judgment condemns, or else vetoing the measure as a whole, including what his judgment approves.

Mr. GALLINGER. Let the resolution go over.

The VICE-PRESIDENT. The resolution goes over, under the objection of the Senator from New Hampshire.

Mr. GORE. Mr. President, I should like to say that I had intended to make the request myself that the resolution go to the table subject to call.

I wish to make a further announcement. I shall at an early day either ask for its adoption or ask that it be referred to the Judiciary Committee, and I make that announcement for this reason: I wish to investigate further, and I wish to confer with my associates as to the technical right and power of the Senate to subdivide a revenue bill which under the Constitution must originate in the House of Representatives.

With the permission of the Senate, I should like to say further that I shall probably seek a report of the Judiciary Committee upon that phase of this question. In the meantime this resolution stands as an avowal of my own views as to what the Senate ought to do if it has the constitutional power.

I have withheld this resolution until each and every schedule was finally agreed to. I have withheld it until the cotton, woolen, sugar, and paper schedules were finally adopted. I have withheld it until I was convinced that the pending tariff bill is worse and will remain worse than the present tariff law. I withheld it until I was convinced that the President of the United States, in order to keep the word of promise to the hope as well as to the ear of the American people, ought to veto this measure when it is finally passed by the two branches of Congress.